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Transcript of Jeffrey Wendel

Date: September 30, 2021

Case: Donnelly -v- Linden Capital Partners III, L.P., et al.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
Charleston Division

- - - - - x
PATRICK K. DONNELLY, :
Plaintiff, :
v. : Case No.
LINDEN CAPITAL PARTNERS III, : 2:20-cv-3719-RMG
L.P., et al., :
Defendants. :

- - - - - x
Videotaped Deposition of JEFFREY WENDEL
Washington, D.C.
Thursday, September 30, 2021
9:04 a.m.

Job No. 398679
Pages 1 - 110
Reported by: Karen Young

1 Videotaped Deposition of JEFFREY WENDEL, held
2 at the offices of:

3 STEIN MITCHELL BEATO & MISSNER LLP
4 901 15th Street, Northwest
5 Suite 700
6 Washington, D.C. 20005
7 (202) 737-7777
8
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11

12 Pursuant to notice, before Karen Young,
13 Notary Public of the District of Columbia.
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A P P E A R A N C E S

ON BEHALF OF PATRICK K. DONNELLY:

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ON BEHALF OF THE DEFENDANTS:

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ON BEHALF OF THE WITNESS:

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ROPES & GRAY
Prudential Tower
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1 ALSO PRESENT:

2 Miles Tag, Videographer

3 Leah Shenfeld, Videographer Trainee

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C O N T E N T S		
EXAMINATION OF JEFFREY WENDEL		PAGE
By Mr. SanFilippo.....		7
By Mr. O'Bierne.....		89
E X H I B I T S		
(Attached to Transcript)		
Exhibit 1	Employment Agreement Between	
	Patrick K. Donnelly and Advarra, Inc.....	100

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1	P R O C E E D I N G S	09:04:30
2	THE VIDEOGRAPHER: Here begins Disk	09:04:30
3	Number 1 in the videotaped deposition of Jeff	09:06:02
4	Wendel in the matter of Donnelly V Linden Capital	09:06:04
5	Partners III, L.P. et al. in the United States	09:06:09
6	District Court for the District of South Carolina,	09:06:14
7	Charleston Division, Case Number 2:20-cv-3719-RMG.	09:06:18
8	Today's date is September 30th, 2021.	09:06:30
9	The time on the video monitor is 9:04 a.m. The	09:06:34
10	videographer today is Miles Tag, representing	09:06:39
11	Planet Depos. This video deposition is taking	09:06:42
12	place at 901 15th Street, Northwest, Suite 700,	09:06:45
13	Washington, D.C. 20005. Would counsel please	09:06:52
14	voice-identify themselves and state whom they	09:06:57
15	represent.	09:06:59
16	MR. SANFILIPPO: Nick SanFilippo from	09:06:59
17	McGuireWoods for Patrick Donnelly.	09:07:00
18	MR. DEMERS: Greg Demers from Ropes &	09:07:03
19	Gray on behalf of the deponent.	09:07:04
20	MR. O'BEIRNE: Phillip O'Beirne from	09:07:06
21	Stein Mitchell, representing defendants.	09:07:07
22	THE VIDEOGRAPHER: The court reporter	09:07:09
23	today is Karen Young, also representing Planet	09:07:10
24	Depos. Will the reporter please swear in the	09:07:13
25	witness and then we may proceed?	09:07:15

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1	JEFFREY WENDEL,	09:07:25
2	having been duly sworn, testified as follows:	09:07:25
3	EXAMINATION BY COUNSEL FOR PATRICK K. DONNELLY	09:07:25
4	- - -	09:07:25
5	BY MR. SANFILIPPO:	09:07:26
6	Q Good morning, Mr. Wendel.	09:07:26
7	A Hi. How you doing?	09:07:28
8	Q Good, thank you. I want to thank you for	09:07:30
9	taking time out of your busy day to come here and	09:07:32
10	talk to me. I know you've --	09:07:35
11	A Sure.	09:07:35
12	Q -- got things you'd rather be doing.	09:07:37
13	Have you ever been deposed before?	09:07:39
14	A Not personally. I've been -- I've been	09:07:40
15	deposed I guess in a UCMJ type proceeding, but not,	09:07:42
16	you know, commercial.	09:07:48
17	Q Universal Court of Military Justice?	09:07:49
18	A Right.	09:07:51
19	Q So you were in the -- you were in the	09:07:52
20	military?	09:07:53
21	A Yeah, I was. I was a submarine officer.	09:07:53
22	Q Thank you for your service.	09:07:56
23	A Thanks.	09:07:58
24	Q So you know, I take it that because	09:07:59
25	you've been deposed before, that you're somewhat	09:08:02

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1	familiar with the process. You know, I'm asking	09:08:05
2	you questions under oath. You know, if you -- if	09:08:06
3	you have any -- if you're not able to understand	09:08:09
4	the questions that I'm asking you, if I ask you a	09:08:12
5	question that's just a bad question or it's a	09:08:15
6	confusing question or you're not sure what I mean,	09:08:17
7	feel free to ask me for clarification. Is that	09:08:19
8	fair?	09:08:21
9	A Yeah, fair.	09:08:21
10	Q If -- if you want to take a break at any	09:08:23
11	time, just let me know. The only thing that I ask	09:08:27
12	is that you not do so while a question is pending.	09:08:29
13	Is that fair?	09:08:32
14	A Fair enough.	09:08:32
15	Q So if I ask a question --	09:08:33
16	A Right.	09:08:34
17	Q -- you answer it, and then we --	09:08:35
18	A Right.	09:08:35
19	Q -- can take a break.	
20	A Take a break, right.	09:08:36
21	Q Have -- you know, is there -- is there	09:08:38
22	anything that would prevent you from testifying	09:08:41
23	truthfully today, any medication, any illness, any	09:08:43
24	memory loss?	09:08:46
25	A No.	09:08:47

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1	Q	Okay.	09:08:47
2	A	No.	09:08:48
3	Q	So Mr. Wendel, what -- what is your	09:08:48
4		current title?	09:08:51
5	A	I would guess it's essentially either	09:08:52
6		retired or perhaps a flaneur, but no, so I'm -- I	09:08:55
7		retired from Advarra last year.	09:09:03
8	Q	Okay, okay, and then prior to that, what	09:09:07
9		was your title?	09:09:09
10	A	I was president of Advarra.	09:09:10
11	Q	And how long were you with Advarra	09:09:13
12		overall?	09:09:16
13	A	Well, it started out as Chesapeake IRB.	09:09:16
14	Q	Right.	09:09:19
15	A	So I started there in 2006, so roughly 14	09:09:19
16		years.	09:09:22
17	Q	Okay. And what was your title in 2006	09:09:23
18		when you joined Advarra?	09:09:28
19	A	2006 for -- Advarra was like --	09:09:30
20	Q	I'm sorry.	09:09:36
21	A	Sorry.	
22	Q	Chesapeake IRB. When you joined	09:09:36
23		Chesapeake IRB in 2006 --	09:09:40
24	A	I was -- I think I was the vice president	09:09:40
25		in operations. I eventually became the CEO.	09:09:41

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1	Q	Okay. Do you recall what year you became	09:09:44
2		the CEO?	09:09:46
3	A	I'm going to say 2013ish, 2013 probably.	09:09:47
4	Q	And prior to joining Chesapeake IRB, what	09:09:51
5		did you do?	09:09:55
6	A	I was a president of a systems	09:09:55
7		integration company.	09:09:59
8	Q	And which one was that?	09:10:00
9	A	It was called RWD Technologies.	09:10:01
10	Q	Okay, and how long were you there?	09:10:05
11	A	About nine years.	09:10:06
12	Q	Okay. Were you the president the whole	09:10:07
13		time?	09:10:09
14	A	No. Probably five, six years.	09:10:09
15	Q	Okay. And then -- so that takes us back	09:10:15
16		to roughly 2000 when you started there; is that	09:10:22
17		right?	09:10:24
18	A	I started there in like '94.	09:10:24
19	Q	Oh, sorry.	09:10:26
20	A	Yeah.	09:10:27
21	Q	'94. And then what did you do prior to	09:10:27
22		1994?	09:10:31
23	A	I was a director at a division of Singer,	09:10:31
24		did realtime simulators, things like aircraft,	09:10:36
25		submarines, offshore oil platforms.	09:10:41

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1	Q	Sure. If I ask you about anything that's	09:10:42
2		classified, I have no intention --	09:10:43
3	A	Don't worry.	09:10:43
4	Q	-- to do that. If I start to go down	09:10:45
5		that road, just --	09:10:46
6	A	Yeah.	09:10:47
7	Q	-- tell me that you can't talk about it	09:10:47
8		and I'll understand.	09:10:49
9	A	No.	09:10:50
10	Q	So -- and then -- when did you join	09:10:52
11		Singer?	09:10:54
12	A	In '82 when I got out of the Navy.	09:10:54
13	Q	Okay, and how long were you in the Navy?	09:10:56
14	A	Five years.	09:10:58
15	Q	And where did you go to school?	09:10:59
16	A	I went to the Naval Academy.	09:11:02
17	Q	Naval Academy?	09:11:04
18	A	Yeah.	09:11:06
19	Q	Great. It's a great institution. And I	09:11:07
20		assume you just -- it was just a -- the four-year	09:11:09
21		Naval Academy track, right?	09:11:12
22	A	Yeah, I had a five-year commitment.	09:11:14
23	Q	Five-year, and then --	
24	A	So I graduated '77, got out in '82. Then	09:11:16
25		I stayed on as a reserve officer until I retired.	09:11:18

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1	Q	Okay.	09:11:21
2	A	Eventually was the -- a senior officer	09:11:22
3		assigned to the deputy chief of Naval operations	09:11:24
4		for submarine warfare.	09:11:27
5	Q	Well, I know I already said this, but I	09:11:28
6		want to say it on the record. Thank you for your	09:11:30
7		service.	09:11:31
8	A	Sure.	09:11:31
9	Q	I really do appreciate it. Have you ever	09:11:32
10		worked for a private equity firm directly?	09:11:38
11		MR. O'BEIRNE: Objection, form.	09:11:44
12		MR. DEMERS: You can answer.	09:11:46
13		THE WITNESS: Sorry.	
14		MR. DEMERS: You can answer.	09:11:46
15		THE WITNESS: Not as a member of the	09:11:47
16		private equity organization. Obviously as a	09:11:48
17		portfolio company CEO.	09:11:50
18		BY MR. SANFILIPPO:	09:11:52
19	Q	Right, but no direct employment with --	09:11:52
20	A	No, no.	09:11:54
21	Q	Okay, so you -- have you ever been --	09:11:55
22		you've never been directly employed by Linden?	09:11:56
23	A	No.	09:11:59
24	Q	Okay. Was Chesapeake IRB the first	09:12:00
25		company you worked for in the health care space?	09:12:07

1 A Yes, although the systems integration 09:12:10
2 company that I worked for, one of our main 09:12:15
3 verticals was health care, so probably 50 percent 09:12:17
4 of our systems deployments were in the health care 09:12:21
5 space. 09:12:24

6 Q Okay, okay. How did you end up 09:12:24
7 transitioning -- what made you transition from 09:12:27
8 systems integration to the IRB space in particular? 09:12:31

9 A Well, we -- we had initially taken the 09:12:35
10 organization -- the RWD company public. The owner, 09:12:38
11 or the primary shareholder didn't -- when we did 09:12:44
12 the initial offering, wanted to retain like 55 09:12:48
13 percent ownership so he still had control. Much to 09:12:51
14 many of our chagrin, that had a detrimental impact 09:12:55
15 on its valuation. It's basically still a private 09:13:00
16 company for all practical purposes. We couldn't 09:13:02
17 convince him to do a secondary offering, and 09:13:05
18 subsequently, we came to, you know, just a -- or at 09:13:08
19 least I came to a fork in the road and just said 09:13:12
20 hey, I think I need to do something else. 09:13:14

21 Q Okay, okay, that makes sense, but why did 09:13:15
22 you choose the IRB space? 09:13:19

23 A Well, because the -- the opportunity that 09:13:21
24 was presented to me through a -- an accounting 09:13:22
25 friend was working with Chesapeake, and they were 09:13:26

1 on the verge of doing what I had done all that
2 time, which is basically take -- install
3 enterprise-wide systems that sort of transform the
4 business operations, both from a people process and
5 technology perspective. What our company was good
6 at was coming in and helping you figure out what
7 you needed, both from a -- you know, a business
8 process reengineering, from a technology
9 implementation and from a people configuration.
10 Our premise was if you're not strong in those three
11 areas, you're eventually not going to have a
12 successful outcome.

13 Q Okay.

14 A So Chesapeake had a unique opportunity --
15 I did not -- while a good percentage of our
16 deployments were actually in support of clinical
17 research, I never heard an -- I never even heard of
18 an IRB. In fact, when I met the owner, even going
19 to the web site, I was still perplexed what -- it
20 wasn't the world's best web site.

21 Q Right.

22 A But I asked him to explain what it was.
23 So I had no -- no knowledge specifically of IRBs,
24 no -- no thirst to go there, but it was just -- I
25 saw it as an opportunity to help them transform

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1	that business, and he eventually wanted to do a	09:14:33
2	transaction, so it -- it was interesting.	09:14:36
3	Q So it came to be obviously that Linden	09:14:40
4	acquires Chesapeake and/or merges it with Schulman.	09:14:54
5	Can you tell me about that process and how that	09:14:58
6	came to be in your mind?	09:15:00
7	MR. O'BEIRNE: Form.	09:15:07
8	MR. DEMERS: You can answer.	09:15:07
9	A Okay. Just to be clear, it was from	09:15:08
10	privately held Chesapeake --	09:15:10
11	Q Right.	09:15:11
12	A -- to privately owned Audax Chesapeake,	09:15:11
13	to then a Linden transaction.	09:15:14
14	Q Okay. Can you tell me about the	09:15:15
15	acquisition of Chesapeake by Audax?	09:15:19
16	A Okay, the -- the transaction involving	09:15:22
17	Linden buying Chesapeake. Typical --	09:15:27
18	MR. O'BEIRNE: Sorry, he asked you Audax,	09:15:31
19	and you're answering Linden, just to make sure	09:15:34
20	we're not talking past each other.	09:15:35
21	A Linden -- Linden acquiring --	09:15:38
22	Q No, I'm -- I'm sorry. I did -- I did --	09:15:38
23	he -- Mr. O'Beirne's correct. I -- I want to take	09:15:39
24	a step back sort of --	09:15:43
25	A Okay.	09:15:43

1	Q	-- the beginning of what he said and just	09:15:43
2		kind of go through it.	09:15:44
3	A	Okay.	09:15:45
4	Q	So you said Chesapeake was acquired by	09:15:45
5		Audax?	09:15:47
6	A	Right.	09:15:47
7	Q	Can you tell me about that process, how	09:15:48
8		that --	09:15:50
9	A	So we -- we ran a modest transaction,	09:15:50
10		went through the, you know, typical management	09:15:53
11		presentations, had, you know, several bidders at	09:15:56
12		the end, picked Audax. So the -- the same usual	09:15:59
13		and customary things that you would do in all	09:16:03
14		subsequent transactions we did, just on a smaller	09:16:07
15		basis.	09:16:09
16	Q	Okay, and then eventually you said Linden	09:16:11
17		acquired --	09:16:16
18	A	Yeah, so then Linden subsequently	09:16:16
19		acquired the Audax-owned asset known as Chesapeake	09:16:19
20		IRB.	09:16:23
21	Q	Okay. How did that come about?	09:16:24
22	A	Well, it's a typical -- I guess we were	09:16:25
23		doing pretty well and typical hold period, so we	09:16:28
24		went, entered into a transaction and, you know, did	09:16:33
25		the normal private equity transaction process.	09:16:36

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1	Q	Okay. What was your involvement in the	09:16:40
2		sale process of Chesapeake to Linden, if any?	09:16:42
3	A	So I was -- I was a CEO, so I was the --	09:16:46
4		I was the point person that led that, both from the	09:16:50
5		-- working with Linden -- excuse me, working with	09:16:55
6		Audax to say hey, is this a good time, should we do	09:16:58
7		that, to being involved with any of the -- yeah,	09:17:00
8		the book -- what do they call it? Confidential,	09:17:04
9		the CIM, confidential information memorandums,	09:17:08
10		preparing the team for -- preparing the	09:17:12
11		organization for sale, you know, which is -- which	09:17:14
12		we had started basically the day that we got	09:17:17
13		purchased, and prior to that, we had started as a	09:17:21
14		private company.	09:17:23
15		So tuning those particular things up from	09:17:24
16		a financial perspective, so making ourselves	09:17:27
17		presentable to organizations, leading the team that	09:17:30
18		eventually created the deck, and then also	09:17:33
19		identifying the executives that would be part of	09:17:37
20		the management presentations, getting the -- the	09:17:39
21		bids back, analyzing them from a fit perspective	09:17:43
22		both from a price, but more importantly from what's	09:17:48
23		life -- after the day that the money slides across	09:17:51
24		the table, what's life going to be like, are they	09:17:54
25		going to be able to support our growth aspirations,	09:17:57

1 which was a -- which was a same criteria at the 09:18:00
2 first -- you know, the first sale of Audax. 09:18:03

3 Looked at the let's say agreements from a 09:18:06
4 -- from a leverage perspective, from a covenant 09:18:12
5 perspective. Could organizations come in -- you 09:18:15
6 know, it's one thing to get a deal. Can a deal be 09:18:17
7 consummated? So, you know, certainty of close, if 09:18:21
8 you will. 09:18:24

9 Q Uh-huh. 09:18:24

10 A So basically everything that you would 09:18:25
11 expect a CEO that would have responsibility for the 09:18:27
12 operation of the organization as well as a 09:18:30
13 fiduciary responsibility to the shareholders of the 09:18:33
14 deal. So I was the point person that did that, 09:18:37
15 worked directly with Audax to eventually say we 09:18:40
16 think this is a team that would win. We were very 09:18:43
17 fortunate in going from one great organization to 09:18:48
18 another great organization, so -- so I guess we did 09:18:51
19 okay. 09:18:54

20 Q What -- what were the factors about 09:18:55
21 Linden specifically that made you want to go with 09:18:56
22 them? 09:18:59

23 MR. O'BEIRNE: Form. 09:19:00

24 BY MR. SANFILIPPO: 09:19:01

25 Q I mean, you did say you recommended 09:19:01

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1	Linden, correct?	09:19:04
2	MR. O'BEIRNE: Same.	09:19:05
3	MR. DEMERS: You can answer.	09:19:06
4	A Yeah, I did.	09:19:06
5	Q Okay, and so what were the reasons that	09:19:07
6	you did that?	09:19:09
7	MR. O'BEIRNE: Same.	09:19:11
8	MR. DEMERS: You can answer.	09:19:11
9	MR. O'BEIRNE: Sorry, and I don't mean to	09:19:12
10	--	09:19:14
11	THE WITNESS: No, no, no, no.	09:19:14
12	MR. O'BEIRNE: I'm just making these for	09:19:15
13	the record.	09:19:17
14	THE WITNESS: No, I get -- I get the -- I	09:19:18
15	get the -- you know, I'm here to, you know, do what	09:19:18
16	you guys need to do. So I'm sorry, can you repeat	09:19:20
17	the question again? I know you'll --	09:19:22
18	BY MR. SANFILIPPO:	09:19:24
19	Q Sure.	09:19:24
20	A -- give another form, but --	
21	Q Sure. What were the reasons that you	09:19:25
22	recommended Linden to Audax as the purchaser?	09:19:28
23	A Okay.	09:19:32
24	MR. O'BEIRNE: Form.	09:19:33
25	MR. DEMERS: You can answer.	09:19:34

1 A For me it's -- it's the same in any type 09:19:34
2 of transaction, even whether it's a business deal 09:19:38
3 with just a client -- client perspective. First of 09:19:39
4 all, when you're -- when you're giving your 09:19:43
5 ownership and you're going to work for someone 09:19:46
6 else, like I said, is that some -- is that an 09:19:47
7 organization that maybe has a share, the same 09:19:49
8 mission, guiding principles that your team has that 09:19:54
9 you would like to be part of, is it -- is it a 09:19:56
10 group that you can work with? Does the group have 09:19:58
11 the ability, in the case of a private equity firm, 09:20:01
12 especially when you're in the mid-market, does it 09:20:04
13 have the ability both available and -- and 09:20:07
14 demonstrated ability to pass -- to help you take 09:20:11
15 your organization from where it is to where it 09:20:14
16 could be. That includes obviously financial 09:20:16
17 wherewithal, but it also as importantly requires 09:20:19
18 domain expertise. 09:20:24

19 Q Uh-huh. 09:20:25

20 A Specifically in our case it would be 09:20:26
21 health care as well as, you know, helping an 09:20:28
22 organization at any point, any organization can 09:20:31
23 improve itself, whether it's back office operations 09:20:35
24 or whether it's financial reporting, whether it's, 09:20:39
25 you know, ESG type things, whether it's, you know, 09:20:42

1 how you present yourself from a marketing 09:20:46
2 perspective. 09:20:48

3 So as we went through the things, those 09:20:48
4 were our checklists. Those are our checklists in 09:20:51
5 my opinion in every transaction that we did. 09:20:52

6 Q Okay. 09:20:54

7 A And Linden came up in our -- in my view 09:20:54
8 and apparently Audax's as well as superior in all 09:20:57
9 respects to the competition at the time. 09:21:01

10 Q Were you involved in any acquisitions as 09:21:03
11 president or CEO of an organization? 09:21:12

12 MR. O'BEIRNE: Objection to the form. 09:21:15

13 MR. DEMERS: You can answer. 09:21:16

14 A Yeah, so -- so Chesapeake did three or 09:21:16
15 four acquisitions under the Audax framework, again, 09:21:23
16 same type of a scenario. The first one was a -- 09:21:28
17 was a smaller entity, so it was fairly easy. The 09:21:31
18 second one was a substantial acquisition of a 09:21:34
19 Canadian company that did similar services. So 09:21:36
20 again, if you're asking am I familiar with the due 09:21:38
21 diligence process and the -- the transactional deal 09:21:41
22 mechanics, yeah, absolutely. 09:21:46

23 Q Okay. 09:21:47

24 A So we did -- we did several transactions 09:21:48
25 that were transformed either from a -- expanding 09:21:51

1	our capabilities either directly in what we were	09:21:57
2	doing or perhaps adjacent kind of opportunities.	09:22:00
3	We also picked things that were able to be fairly	09:22:03
4	creative from a purchase price perspective, and	09:22:08
5	then we would, you know, evaluate whether the deal	09:22:11
6	would be perhaps debt or -- you know, debt or	09:22:14
7	equity or a combination. So if you're -- so if	09:22:16
8	you're asking do I know how to do it, my answer	09:22:18
9	would be yeah.	09:22:21
10	Q Okay. When did you first meet Pat	09:22:22
11	Donnelly?	09:22:26
12	A Well, I met him a couple times, you know,	09:22:26
13	tangentially at conferences like DIA, so I knew who	09:22:33
14	he was. I mean, he's a hard guy to sort of forget,	09:22:36
15	you know. I'm short. He's pretty tall.	09:22:39
16	Q He is pretty tall.	
17	A So --	
18	Q I am not tall.	09:22:42
19	A Once you -- once you meet him, he's sort	09:22:43
20	of a -- you know, not a forgettable person, if you	09:22:45
21	will.	09:22:48
22	Q Uh-huh.	09:22:49
23	A But my probably first real interaction	09:22:49
24	with him was when he was part of the Linden due	09:22:53
25	diligence team.	09:22:57

1	Q	Okay, okay. Do you recall the first	09:22:58
2		conversation you had with Mr. Donnelly related to	09:23:01
3		Linden due diligence of Chesapeake?	09:23:04
4	A	Not really, no.	09:23:06
5	Q	Okay, okay. Do you recall the first time	09:23:07
6		you spoke to anyone at Linden related to Linden's	09:23:13
7		acquisition or potential acquisition of Chesapeake?	09:23:18
8	A	Well, that would have been again in the	09:23:21
9		-- in the process of Audax's sale to Linden, and so	09:23:26
10		those conversations would have been primarily in	09:23:30
11		management presentations or subsequent -- you know,	09:23:35
12		you get down to the finalists and you have the --	09:23:39
13		the more serious due diligence.	09:23:42
14	Q	Okay.	09:23:44
15	A	I don't -- I guess when you're asking --	09:23:45
16		I don't recall having any one-on-one conversation	09:23:47
17		that was not known to -- as part of the due	09:23:53
18		diligence process in either case.	09:23:56
19	Q	What do you mean, in either case?	09:23:59
20	A	Pat Donnelly or Linden.	09:24:03
21	Q	Okay. Had you worked with operating	09:24:04
22		partners at any other private equity firm prior to	09:24:15
23		Linden's potential acquisition of Chesapeake?	09:24:20
24	A	So my experience would have been working	09:24:23
25		directly for one private equity, and I don't recall	09:24:28

1	that they had any operating partners.	09:24:31
2	Q Okay.	09:24:33
3	A They didn't use that type of model.	09:24:33
4	Q What -- what did you understand Mr.	09:24:35
5	Donnelly's role to be with respect to Linden's	09:24:39
6	potential acquisition of Chesapeake?	09:24:41
7	MR. O'BEIRNE: Objection to form.	09:24:44
8	MR. DEMERS: Objection to form. You can	09:24:45
9	answer.	09:24:47
10	MR. O'BEIRNE: And foundation.	09:24:47
11	MR. DEMERS: You can answer.	09:24:49
12	BY MR. SANFILIPPO:	09:24:50
13	Q Well, let me ask it differently.	09:24:50
14	A Okay.	
15	Q Did you have any understanding of Mr.	09:24:52
16	Donnelly's role with respect to Linden's potential	09:24:54
17	acquisition of Chesapeake?	09:24:58
18	MR. O'BEIRNE: Same.	09:25:00
19	MR. DEMERS: You can answer.	09:25:00
20	A Well, I mean, I guess I would say I	09:25:01
21	didn't spend a lot of time thinking about that. I	09:25:04
22	mean, he was part of -- when you're doing the	09:25:06
23	presentations, he was one of a number of Linden	09:25:09
24	and/or paid consultants at the time that were	09:25:13
25	evaluating, you know, the goodness of our entity.	09:25:18

1 So I didn't -- I didn't spend much time thinking 09:25:22
2 about what the relationship was other than I knew 09:25:27
3 they worked for them and they were part of the 09:25:31
4 evaluation team. I'm not sure that's answering 09:25:33
5 your question, but that's a fact. 09:25:35

6 Q Sure. Did you have any understanding at 09:25:37
7 the time of how Linden uses operating partners 09:25:42
8 generally? 09:25:46

9 MR. DEMERS: Objection to form. 09:25:47

10 MR. O'BEIRNE: Same. 09:25:49

11 MR. DEMERS: You can answer. 09:25:49

12 THE WITNESS: Again, I would say I -- you 09:25:52
13 know, once let's say under Linden ownership, I 09:25:54
14 understood the basic concept of an operating 09:25:58
15 partner, but that was kind of it. 09:26:00

16 BY MR. SANFILIPPO: 09:26:03

17 Q Okay. What was your understanding of the 09:26:03
18 basic concept of an operating partner? 09:26:06

19 MR. O'BEIRNE: Foundation. 09:26:09

20 MR. DEMERS: You can answer. 09:26:09

21 A I would say that they -- at least in my 09:26:10
22 experience, they're someone that was assigned to 09:26:19
23 your company to provide support as was needed. 09:26:22

24 Q So after Linden acquires Chesapeake, what 09:26:27
25 involvement did you have with the merger with -- 09:26:52

1	between Chesapeake and Schulman to make Advarra?	09:26:55
2	MR. O'BEIRNE: Objection to form.	09:26:59
3	MR. DEMERS: You can answer.	09:27:00
4	A Okay. Well, essentially we had -- we	09:27:01
5	decided -- I had a longstanding relationship with	09:27:05
6	their CEO, okay, so we were not -- not unknown to	09:27:09
7	each other. Once the opportunity let's say in a	09:27:12
8	very nascent way presented itself, we decided as a	09:27:18
9	group that myself and that CEO would go off on a	09:27:22
10	little clandestine operation, if you want to call	09:27:27
11	it that, where in my case I was the only person in	09:27:30
12	our company that knew that there were even	09:27:34
13	discussions going on, I assume the same level of	09:27:36
14	confidentiality on the other side. And so for a	09:27:40
15	period of about six or seven months, in a sense I	09:27:42
16	was the point person in terms of going back and	09:27:46
17	forth between, you know, Chesapeake and -- and	09:27:49
18	Schulman.	09:27:54
19	Q Okay. Now, prior to the merger of	09:27:54
20	Chesapeake and Schulman, what was Mr. Donnelly's	09:27:57
21	role with respect to Chesapeake?	09:28:00
22	MR. DEMERS: Objection. You can answer.	09:28:03
23	BY MR. SANFILIPPO:	09:28:04
24	Q If you recall.	09:28:04
25	A Yeah, okay, so that was -- so he was	09:28:06

Transcript of Jeffrey Wendel
Conducted on September 30, 2021

27

1	obviously a member of the board, and he provided	09:28:22
2	some level of oversight of what we were doing.	09:28:26
3	Q Who was the -- you said the CEO of	09:28:32
4	Schulman?	09:28:42
5	A Yes.	09:28:42
6	Q Who was that?	09:28:42
7	A A guy named Michael Woods.	09:28:43
8	Q Okay, and so after you and Mr. Woods had	09:28:46
9	your clandestine operation --	09:28:48
10	A And that's maybe a --	09:28:51
11	Q Sure.	09:28:52
12	A I might have chosen a different word.	09:28:53
13	Let's put it that way. That has -- that has --	09:28:55
14	well, no, let's just -- let's get it on the record	09:28:57
15	so it's clear, okay? That has an air of unsavory	09:28:59
16	activity.	09:29:05
17	Q I understood it as a turn of phrase.	09:29:05
18	A Okay. Well, I just want to make -- you	09:29:07
19	know, because somebody else is going to read -- or	09:29:08
20	listen to this stuff, and they're going to say oh,	09:29:09
21	that sounds really weird. It was absolutely above	09:29:11
22	board, known to all parties. There were no	09:29:17
23	discussions that were not within the fiduciary	09:29:19
24	responsibility or just good thing. It was	09:29:24
25	conducted in a manner that was confidential to the	09:29:27

1	two chief executive officers and their team.	09:29:31
2	Q Understood.	09:29:34
3	A So I -- I made sure that none of my	09:29:35
4	people -- I literally -- they did not know that we	09:29:38
5	were doing this until we announced it from a board	09:29:41
6	resolution. I suspect Mr. -- Mr. Woods did the	09:29:44
7	same thing, but there was no -- I was not out on an	09:29:48
8	activity that was hey, Jeff, just go out and root	09:29:51
9	around and figure out what you can find. I mean,	09:29:57
10	it was a -- you know, a chain of command type	09:30:00
11	activity. Let me make sure that's a hundred	09:30:04
12	percent clear.	09:30:07
13	Q Understood, sir. I am in no way here to	09:30:08
14	--	
15	A Okay.	
16	Q -- impugn your character. So after you	09:30:12
17	met with Mr. Woods --	09:30:14
18	A Right.	
19	Q -- what -- what happened then? What	09:30:19
20	steps did you take?	09:30:21
21	A Well, there was a period of -- of back	09:30:21
22	and forth. The first thing was like, you know,	09:30:23
23	initial kumbaya, hey, what do you think? And there	09:30:25
24	was a lot of goodness from a synergy perspective.	09:30:29
25	Even though we did the same things, we did them in	09:30:34

1 a slightly different manner, had a slightly 09:30:36
2 different set of clients. 09:30:39

3 And so there was also -- hey, it was no 09:30:40
4 surprise to me or I think anyone else that that 09:30:43
5 industry was going to be consolidated. There was a 09:30:46
6 bunch of tiny things that did an important task in 09:30:49
7 the clinical research. It was ripe for 09:30:52
8 consolidation. It's one reason why I joined 09:30:54
9 Chesapeake initially. So it was a logical thing to 09:30:57
10 do, but we -- you know, but just because it's a 09:31:00
11 good thing maybe financially or capability wise 09:31:02
12 doesn't mean it's a good thing to do. 09:31:07

13 Q Uh-huh. 09:31:10

14 A So we kind of worked through those 09:31:10
15 scenarios, you know, sort of the idea of how might 09:31:12
16 it look, and we got to a point where the four 09:31:15
17 parties, the two private equity companies and 09:31:19
18 ourselves agreed it made sense, and then we went to 09:31:22
19 a more formal -- I don't want to infer that this 09:31:25
20 process was not formal, because it certainly was, 09:31:31
21 but we, you know, made it more of a transactional 09:31:35
22 process -- a process with a transaction in mind. 09:31:37

23 Q Was it -- pardon my terminology if it's 09:31:41
24 inaccurate here. I'm trying to get the concept, 09:31:48
25 but was it a -- sort of a direct merger or was 09:31:51

1	there -- was it shopped about, do you know?	09:31:55
2	A No, it was a direct --	09:31:57
3	MR. DEMERS: Objection. You can answer.	09:31:59
4	MR. O'BEIRNE: Yeah, okay.	09:32:00
5	A I'm sorry. Sorry, I jumped the gun	09:32:01
6	there. It was a direct merger.	09:32:04
7	Q Okay. And so who -- did you -- so you	09:32:05
8	met with Mr. Woods, and -- and then what?	09:32:17
9	Diligence happened?	09:32:21
10	A Well, I guess we had a series -- I would	09:32:23
11	say -- it wasn't like we met one time and -- and	09:32:29
12	then we moved on. It was a series of, you know,	09:32:31
13	okay, this makes sense, I'm going to report back	09:32:35
14	to, you know, my team, you report back to your	09:32:39
15	team, and eventually we kind of nicked it down	09:32:41
16	where we saw -- we saw there was a way forward, and	09:32:45
17	then it -- then it transformed itself to more what	09:32:48
18	I would call a typical transaction as opposed to a	09:32:52
19	focused conversation. That's a -- that's a good	09:32:55
20	way to describe it.	09:33:00
21	Q Sure.	09:33:01
22	A It's probably not technical, but --	09:33:02
23	Q When did Mr. Donnelly get involved?	09:33:03
24	A I would say probably around the time that	09:33:06
25	we were doing the -- or the board was deciding	09:33:14

1	whether we were going to proceed.	09:33:17
2	Q Okay, and what was Mr. Donnelly's	09:33:19
3	involvement, to your knowledge?	09:33:26
4	A Well, he was -- let me try to remember.	09:33:27
5	At that time he was not -- no, he would have -- I	09:33:37
6	guess I didn't see any difference between his	09:33:40
7	operational -- excuse me, operating partner day to	09:33:43
8	day before or after except that we had one more	09:33:50
9	topic to talk about, which was the potential	09:33:53
10	merger.	09:34:02
11	Q Okay. Did -- strike that. Was Mr.	09:34:02
12	Donnelly involved in doing due diligence on	09:34:10
13	Schulman?	09:34:14
14	A Yeah, once we -- once we decided to go	09:34:15
15	forward, he participated as part of a team that	09:34:20
16	went through that.	09:34:26
17	Q Okay. Do you know whether Mr. Donnelly	09:34:27
18	attended any investment team meetings related to	09:34:30
19	that?	09:34:32
20	MR. O'BEIRNE: Objection, form,	09:34:34
21	foundation.	09:34:35
22	MR. DEMERS: You can answer.	09:34:35
23	A When you say investment team, meaning --	09:34:37
24	Q Linden's investment team.	09:34:38
25	MR. O'BEIRNE: Same.	09:34:41

1 A Meaning -- I'm struggling with the term 09:34:42
2 "investment team." Does that include -- I mean, 09:34:49
3 what -- what specifically about it? 09:34:50
4 Q Do you know if Mr. Donnelly attended any 09:34:51
5 meetings with Linden partners to discuss the merger 09:34:53
6 of Chesapeake and Schulman? 09:35:00
7 MR. O'BEIRNE: Same. 09:35:04
8 MR. DEMERS: You can answer. 09:35:04
9 A I would imagine he did. I'm not sure he 09:35:05
10 shared that with me, so -- 09:35:07
11 Q Okay. Did you attend any meetings with 09:35:09
12 Linden partners regarding the merger of Schulman 09:35:12
13 and Chesapeake? 09:35:17
14 MR. O'BEIRNE: Form. 09:35:19
15 MR. DEMERS: You can answer. 09:35:19
16 A I'm -- just so we're clear, I'm defining 09:35:20
17 partner as someone that would be a significant 09:35:23
18 stakeholder in the -- in the entity called Linden. 09:35:26
19 Q Sure. I'm not -- that's fair. I'm not 09:35:31
20 trying to discern between -- necessarily between a 09:35:36
21 partner and a vice president or principal. 09:35:39
22 A Okay. 09:35:41
23 Q But someone who works directly for Linden 09:35:42
24 managing the investment that they have in 09:35:45
25 Chesapeake and Schulman, did you meet directly with 09:35:47

1	any of those people?	09:35:50
2	A Oh, yeah, yeah, Kam Shah and Tony Davis	09:35:51
3	specifically.	09:35:58
4	Q Were -- was Mr. Donnelly involved in	09:35:58
5	those meeting?	09:36:01
6	A Sometimes, and sometimes not.	09:36:03
7	Q Okay.	09:36:04
8	A But again, that was a -- that would be	09:36:05
9	like a usual -- the usual course of business.	09:36:07
10	Q Okay. Did -- did Mr. Donnelly provide	09:36:09
11	you with any advice and counsel regarding the	09:36:14
12	operations of the entity?	09:36:18
13	MR. DEMERS: Objection to form. You can	09:36:21
14	answer.	09:36:22
15	MR. O'BEIRNE: Same.	09:36:22
16	A I don't -- I don't recall anything that I	09:36:23
17	would say was particularly material.	09:36:37
18	Q Okay.	09:36:40
19	A I mean, obviously as a -- well, I'll just	09:36:50
20	let it stay there.	09:36:54
21	Q Did you have anything that you --	09:36:55
22	A No, no.	09:36:57
23	Q -- wanted to add?	09:36:58
24	A No.	09:36:59
25	Q So after the merger --	09:37:00

1	A	Uh-huh.	09:37:08
2	Q	What was your position after the merger?	09:37:09
3	A	So after the merger, I was the president	09:37:12
4		of Advarra.	09:37:16
5	Q	Okay, and Mr. Donnelly came on board as	09:37:18
6		the CEO; is that correct?	09:37:21
7	A	Correct.	09:37:22
8	Q	Okay. When did you learn that you would	09:37:23
9		not be the CEO of the combined entity?	09:37:25
10	A	October 3rd of I think it was 2017, so --	09:37:28
11		so a few -- maybe a week or so before the -- the	09:37:39
12		actual consummation of the deal.	09:37:45
13	Q	Okay. How did you learn that?	09:37:49
14	A	I was asked to come up to Chicago, meet	09:37:50
15		with Tony, Kam and Pat.	09:37:54
16	Q	Okay. Who actually spoke to you at that	09:37:58
17		meeting and told you that you would not be the CEO?	09:38:01
18	A	Who specifically said the words?	09:38:04
19	Q	Yeah.	09:38:08
20	A	I'm pretty sure it was Tony. I mean, he	09:38:09
21		was -- he had the lead, so --	09:38:16
22	Q	What reasons did he give you for that, if	09:38:18
23		you recall?	09:38:22
24	A	That -- I guess they fundamentally -- I	09:38:22
25		maybe don't -- they start -- Pat was I guess better	09:38:49

1	suiting to do it.	09:38:54
2	MR. DEMERS: And -- and for all of these	09:38:55
3	questions, he's not asking you to kind of	09:38:57
4	speculate. It's only for --	09:38:58
5	THE WITNESS: Yeah.	09:38:58
6	MR. DEMERS: -- what --	09:38:58
7	THE WITNESS: Yeah.	
8	MR. DEMERS: -- you actually recall.	09:38:59
9	THE WITNESS: Yeah, yeah.	09:39:00
10	BY MR. SANFILIPPO:	09:39:01
11	Q Yeah, so you don't -- am I correct in	09:39:01
12	understanding that you don't recall specifically	09:39:03
13	what reasons he gave you?	09:39:05
14	A That's probably -- that's a fair	09:39:07
15	assessment, yeah. I mean, I got the point. I --	09:39:13
16	kind of didn't really matter I guess.	09:39:21
17	Q Do you recall whether he gave you any	09:39:23
18	reasons?	09:39:26
19	A Yeah, they gave -- you know, they gave me	09:39:27
20	some -- I guess, like I said, I guess the -- the	09:39:30
21	general way I would sum it up was they thought that	09:39:38
22	perhaps Pat from a scale perspective might have	09:39:41
23	more experience, be the way I'd describe it. I'm	09:39:44
24	not saying -- you know, I mean, that's --	09:39:49
25	Q Do you know who made the decision to make	09:39:51

1	Mr. Donnelly CEO?	09:39:53
2	MR. O'BEIRNE: Form, foundation.	09:39:57
3	MR. DEMERS: You can answer.	09:39:58
4	A I have no direct knowledge of who made	09:39:59
5	the decision, nor how it would have even come up as	09:40:01
6	a topic.	09:40:05
7	Q Do you feel that decision was the right	09:40:06
8	decision?	09:40:16
9	A It's not what I would have done, but I	09:40:17
10	mean, it turned out okay.	09:40:23
11	Q Okay. So after the merger, Mr.	09:40:24
12	Donnelly's the CEO, you're the president.	09:40:31
13	A Correct.	09:40:34
14	Q How was your working relationship with	09:40:35
15	Mr. Donnelly?	09:40:36
16	A I would say it would be what you would	09:40:37
17	expect of a relationship between a CEO and a	09:40:40
18	president. You know, frankly, I continued to run	09:40:42
19	the operations. I reported to him as -- you know,	09:40:47
20	I had -- you know, I understand how a chain of	09:40:51
21	command works, very respectful of that, so I did --	09:40:54
22	basically kept doing what I was doing, which also	09:41:00
23	involved the integration of the two entities, which	09:41:03
24	was not trivial. So I led that component from an	09:41:05
25	operational perspective.	09:41:09

1 The next despondent -- or no, the next
2 person that sits in this chair did more or less the
3 financial piece of that, but I did all the
4 operations part.

5 Q Okay. And what did Mr. Donnelly do?

6 A Oh, he was the CEO. We reported in to
7 him as to what we were doing.

8 Q Okay. Did you have a good working
9 relationship with Mr. Donnelly?

10 A Yeah.

11 Q Did you feel he was capable as the CEO?

12 A Yeah, yeah.

13 Q Did you have any issues with the amount
14 of hours that Mr. Donnelly was working?

15 MR. O'BEIRNE: Form.

16 MR. DEMERS: You can answer.

17 A I would say at times, it appeared to me
18 that he was perhaps distracted on other tasks not
19 necessarily related to Advarra.

20 Q What is the basis for that belief?

21 A Well, let's say -- so I'm not a person
22 that needs a lot of guidance as to -- or hand-
23 holding. You tell me what to do, I go off and do
24 it. I do two things. If I have a question, I come
25 back and ask you hey, I'm thinking about this, what

1	do you think? And the second thing, I report back	09:42:39
2	as to what the status is specifically if something	09:42:41
3	appears on the horizon as being a problem, okay?	09:42:44
4	That's just how I operate.	09:42:48
5	Q Uh-huh.	09:42:49
6	A Okay, so it's like have the cards face up	09:42:50
7	on the table, let me make sure that you're apprised	09:42:52
8	of the important things that we're doing. You	09:42:56
9	don't need to know every little detail, and then,	09:42:58
10	you know, occasionally say given a choice between A	09:43:01
11	and B, what do you think, you know, if I -- if I	09:43:04
12	don't know what to do, but it's more of a -- I	09:43:06
13	won't say it's a tell, but it's more hey, I've	09:43:09
14	analyzed this situation, this is what we need to	09:43:12
15	do, are you okay doing that, that type of scenario.	09:43:14
16	Q Okay.	09:43:18
17	A So as those things came up, I would	09:43:18
18	obviously seek counsel, or seek -- seek an	09:43:21
19	audience, okay, because it's appropriate for the	09:43:22
20	president of the organization to make sure the	09:43:25
21	CEO's fully informed. There'd be times where I	09:43:27
22	would try to get in touch with Pat Donnelly, and it	09:43:32
23	might be honestly several days before I can get a	09:43:35
24	-- a phone audience.	09:43:38
25	Q Okay. Did you have an understanding as	09:43:39

1	to what Mr. Donnelly was doing during those days	09:43:44
2	when you couldn't get ahold of him?	09:43:50
3	MR. O'BEIRNE: Objection.	09:43:53
4	MR. DEMERS: Objection. You can answer.	09:43:53
5	MR. O'BEIRNE: Calls for speculation.	09:43:55
6	BY MR. SANFILIPPO:	09:43:57
7	Q I'm just asking if you had --	09:43:57
8	A Yes.	
9	Q -- an understanding of what he was doing.	09:43:59
10	MR. O'BEIRNE: Same.	09:44:01
11	A I didn't think -- hey, at the end of the	09:44:01
12	day, I'm there to support and do what he needs to	09:44:05
13	have done. What he's doing with his time that	09:44:08
14	weren't directly related to me I didn't speculate	09:44:11
15	nor pay much attention to, and --	09:44:14
16	Q Sure. Did you ever talk to him about it?	09:44:16
17	A No. Like I never -- I guess if you're --	09:44:18
18	I mean, to directly answer your question, I never	09:44:21
19	say hey, what the hell's going on, are you doing	09:44:24
20	something -- pardon that. Sorry about that. What	09:44:27
21	are -- what are you doing, I haven't been able to	09:44:29
22	get in touch you with for a couple of days. So no,	09:44:34
23	and -- and I -- I would not let something -- I	09:44:37
24	mean, if the building was burning down and I	09:44:40
25	couldn't get in touch with him, I'd find another	09:44:43

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1 way to do that, but no, I didn't speculate or
2 inquire or have any real interest in what else was
3 going on.

4 Q Were there any emergencies that came to a
5 head without response from Mr. Donnelly, to your
6 recollection?

7 A No, because that would have been
8 something that I wouldn't have permitted to occur.

9 Q Do you believe that Mr. Donnelly had
10 faith in you to run the operations of the company?

11 MR. DEMERS: Objection to form. You can
12 answer.

13 A Well, if he didn't, it would have no
14 basis in factual performance, so I would assume.
15 He's a pretty smart guy and he would have therefore
16 had faith in me. I had no indication that he
17 didn't.

18 Q So is it fair to say that if Mr. Donnelly
19 let you run the operations of the company, he might
20 have done so because he had faith in you to do so?

21 MR. O'BEIRNE: Form.

22 MR. DEMERS: Objection. You can answer.

23 THE WITNESS: I'm sorry, could you say
24 that again? I'm not sure I understood the --

25 MR. SANFILIPPO: Can you please read the

09:44:44

09:44:47

09:44:50

09:44:51

09:44:57

09:45:02

09:45:02

09:45:05

09:45:08

09:45:28

09:45:30

09:45:33

09:45:34

09:45:42

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09:46:00

09:46:03

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09:46:11

09:46:14

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1	question back to the witness, Karen?	09:46:16
2	THE REPORTER: Question: "So is it fair	09:46:27
3	to say that if Mr. Donnelly let you run the	
4	operations of the company, he might have done so	
5	because he had faith in you to do so?"	09:46:28
6	MR. DEMERS: Same objection. You can	09:46:28
7	answer.	09:46:30
8	THE WITNESS: Yeah, I mean, I'm not sure	09:46:34
9	how that -- I mean, the answer would be yeah, I	09:46:36
10	don't -- I would assume if he didn't, he would have	09:46:40
11	done something else.	09:46:43
12	BY MR. SANFILIPPO:	09:46:44
13	Q Have you ever had any issues getting paid	09:46:44
14	by Linden some amount of compensation that you felt	09:46:50
15	they owed you?	09:46:55
16	MR. O'BEIRNE: Form.	09:46:56
17	MR. DEMERS: You can answer.	09:46:57
18	A No.	09:46:57
19	Q Are you aware of any other situation	09:46:58
20	where a individual has claimed that Linden has not	09:47:13
21	paid them an earned fee or bonus or monetary	09:47:19
22	amount?	09:47:24
23	MR. O'BEIRNE: Form, foundation.	09:47:25
24	MR. DEMERS: You can answer.	09:47:26
25	A No.	09:47:27

1	Q	Now, I know we talked about your	09:47:33
2		background, but just to ask you directly, have you	09:48:07
3		ever been an operating partner for Linden?	09:48:08
4	A	No.	09:48:10
5	Q	Do you know whether Mr. Donnelly was	09:48:10
6		working as an operating partner while he was the	09:48:35
7		CEO of Linden -- oh, strike that question. Do you	09:48:38
8		know if Mr. Donnelly was working as an operating	09:48:42
9		partner while he was the CEO of Advarra?	09:48:45
10		MR. O'BEIRNE: Calls for speculation.	09:48:49
11		MR. DEMERS: You can answer.	09:48:51
12	A	Along the lines of speculation, I would	09:48:52
13		agree, but my -- at least my understanding of the	09:48:54
14		CEO role as a Linden -- as a person who works for	09:48:57
15		Linden is that was a full-time job. So in other	09:49:03
16		words, like if someone -- like it was clear to me,	09:49:08
17		when I was the CEO of Linden, that's what I did.	09:49:10
18		As far as --	09:49:14
19		MR. DEMERS: I think you said CEO, CEO of	09:49:14
20		Linden.	09:49:16
21	A	Excuse me, yeah. Maybe some day. Of --	09:49:16
22		of Chesapeake slash -- I guess Chesapeake at that	09:49:20
23		time. So that was made clear to me that that's a	09:49:23
24		full-time job, but I don't know -- I don't have any	09:49:27
25		speculation on, you know, Pat's situation.	09:49:30

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1	MR. SANFILIPPO: Okay. I just want to	09:49:34
2	note for the record my objection to Mr. O'Beirne's	09:49:35
3	speaking objections. Speculation is a form	09:49:38
4	objection. You are welcome to make a form	09:49:42
5	objection.	09:49:46
6	THE WITNESS: Well, so as a -- as a	09:49:47
7	rebuttal -- or as a joinder to that --	09:49:48
8	MR. DEMERS: He hasn't asked you --	09:49:52
9	THE WITNESS: Oh, okay. Got it.	09:49:55
10	MR. DEMERS: -- a question, but if he	09:49:56
11	follows up, you're welcome to answer.	09:49:56
12	THE WITNESS: Okay, got it. Got it.	09:49:59
13	Thank you.	09:50:02
14	BY MR. SANFILIPPO:	09:50:02
15	Q Mr. Wendel, in preparing for your	09:50:02
16	deposition today, did you ever meet with Mr.	09:50:05
17	O'Beirne?	09:50:07
18	A I saw him in the hallway about ten	09:50:07
19	minutes before we started.	09:50:09
20	Q Okay. Did you discuss the substance of	09:50:10
21	your testimony?	09:50:12
22	A No.	09:50:13
23	Q Okay. Did you discuss your testimony	09:50:13
24	with anyone from Mr. O'Beirne's law firm?	09:50:17
25	A No.	09:50:21

1	Q	So you -- am I correct that you were	09:50:21
2		still the president of Advarra when Advarra was	09:50:49
3		sold to Genstar?	09:50:53
4	A	Correct.	09:50:56
5	Q	Okay. What was your involvement in that	09:50:57
6		transaction?	09:51:00
7	A	So I became fully involved when we	09:51:00
8		decided to start the process, which was started in	09:51:09
9		early -- let's see, it would have been 2019.	09:51:15
10	Q	Okay.	09:51:21
11	A	So my -- my main role -- so there was two	09:51:21
12		things to the -- that I think were germane to that	09:51:25
13		transaction. One was to continue to hit on the	09:51:28
14		operating performance or exceed that, so that was	09:51:31
15		certainly a primary focus. I became let's say	09:51:34
16		fully engaged in the sale process again when we	09:51:40
17		started going down the road of creating the -- the	09:51:43
18		CIMs and the strategy, and you know, what are we --	09:51:47
19		what are we looking for, how are we going to	09:51:51
20		present our strategy moving forward, so the typical	09:51:52
21		things that eventually result in a management	09:51:57
22		presentation.	09:51:59
23	Q	Okay. Did -- do you know what Mr.	09:51:59
24		Donnelly's role was in the sale of Advarra?	09:52:05
25		MR. O'BEIRNE: Form, foundation.	09:52:11

1	MR. DEMERS: You can answer.	09:52:12
2	A I mean, I -- no one, let's say,	09:52:12
3	explicitly told me, but having been a CEO and done	09:52:14
4	it, I assume he was doing the same thing that I	09:52:18
5	would have done, you know, in terms of both the --	09:52:20
6	you know, from a presenting the company perspective	09:52:24
7	as well as grinding through the preparations and	09:52:29
8	the due diligence.	09:52:32
9	Q Okay. Do you have any understanding as	09:52:32
10	to whether Mr. Donnelly was doing things other than	09:52:36
11	things a CEO typically does when a company is sold?	09:52:40
12	MR. DEMERS: Objection to form.	09:52:45
13	MR. O'BEIRNE: And foundation.	09:52:47
14	MR. DEMERS: You can answer.	09:52:47
15	A I'm not sure what would fall into the	09:52:48
16	category of the something else. If you can give me	09:52:55
17	an example, that might help.	09:52:59
18	Q Okay. Well, work that would be performed	09:53:01
19	by an operating partner. I'm just -- I'm just	09:53:04
20	trying to understand whether you have testimony	09:53:06
21	related to this or whether you don't know, do know.	09:53:08
22	Do you know what Mr. Donnelly was doing outside of	09:53:12
23	his typical work as a CEO?	09:53:16
24	MR. O'BEIRNE: Form, foundation.	09:53:18
25	MR. DEMERS: You can answer.	09:53:19

1 A I guess I would say not really with the 09:53:20
2 exception of prior to the -- to the CEO transition, 09:53:25
3 I know he was an operating partner and I know he 09:53:29
4 had at least one other entity that he was 09:53:32
5 overseeing, so I assume he did a similar function 09:53:34
6 for them that he did for us, but I have no -- no 09:53:38
7 direct knowledge, nor did I, you know, worry about 09:53:43
8 that. 09:53:46

9 Q Did you -- did you and Mr. Donnelly ever 09:53:46
10 discuss his operating partner position with Linden? 09:53:48

11 A No. 09:53:52

12 Q Did you ever discuss Mr. Donnelly's 09:53:52
13 operating partner position at Linden with anyone 09:53:55
14 who was employed by Linden? 09:53:57

15 A I don't recall having any conversation at 09:54:01
16 all relating to Mr. Donnelly being or not being an 09:54:05
17 operating partner or what tasks are explicitly 09:54:10
18 stated for that person to do. I mean, I 09:54:17
19 observationally see what happens. I assume that's 09:54:20
20 what -- you know, I don't have any direct 09:54:23
21 knowledge. I don't -- 09:54:25

22 Q Okay. In preparing for your testimony 09:54:26
23 today, did you speak to anyone at Linden? 09:54:27

24 A Well, they told me that I'd eventually 09:54:30
25 get a subpoena, so yeah. 09:54:33

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1	Q	Who was that?	09:54:34
2	A	Kam.	09:54:35
3	Q	Okay. When did that occur?	09:54:37
4	A	Maybe -- maybe two weeks before the	09:54:39
5		subpoena arrived.	09:54:49
6	Q	Apologies for that.	09:54:50
7	A	That's okay.	09:54:52
8	Q	Maybe two weeks before the subpoena came	09:54:52
9		out?	09:54:55
10	A	Yeah.	09:54:55
11	Q	And did he tell you why you'd be getting	09:54:56
12		a subpoena?	09:55:00
13	A	Well, he told me that there was a point	09:55:00
14		of contention, but you know --	09:55:06
15	Q	Did he tell you what the point of	09:55:07
16		contention was?	09:55:09
17	A	No.	09:55:10
18	Q	Was Mr. Shah the only person that you	09:55:10
19		spoke to at Linden?	09:55:17
20	A	Yes.	09:55:18
21	Q	Okay. Did you discuss with anyone at	09:55:19
22		Linden what you would be testifying about?	09:55:24
23	A	No. I had no idea what the questions	09:55:28
24		were, so I wouldn't have any -- you know.	09:55:34
25	Q	Do you have any knowledge of when Mr.	09:55:36

1	Donnelly ceased being an operating partner?	09:56:05
2	MR. O'BEIRNE: Form, foundation.	09:56:09
3	MR. DEMERS: You can answer.	09:56:10
4	A When he ceased being an operating	09:56:11
5	partner? No, I do not.	09:56:12
6	Q Do you have any knowledge of the terms of	09:56:14
7	Mr. Donnelly's operating partner agreement?	09:56:34
8	MR. O'BEIRNE: Same.	09:56:38
9	THE WITNESS: no.	09:56:38
10	MR. DEMERS: You can answer.	09:56:38
11	THE WITNESS: No, I do not. I'm sorry.	09:56:39
12	BY MR. SANFILIPPO:	09:56:42
13	Q Do you have any knowledge regarding Mr.	09:56:42
14	Donnelly's membership in other boards of directors?	09:56:43
15	MR. O'BEIRNE: Same.	09:56:49
16	A Could I name any of them, no. I believe	09:56:51
17	that he might be involved with other organizations,	09:57:02
18	but I could not --	09:57:04
19	Q Any knowledge --	09:57:07
20	A I have no direct knowledge.	09:57:07
21	Q -- roles or responsibilities with --	09:57:09
22	A No.	09:57:11
23	MR. DEMERS: We've been going for close	09:57:42
24	to an hour. Are you --	09:57:44
25	THE WITNESS: Yeah, I'm fine, yeah. Okay	09:57:46

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1	if I grab a -- grab a water?	09:57:50
2	MR. DEMERS: Of course.	09:57:54
3	MR. O'BEIRNE: I got you.	09:57:55
4	BY MR. SANFILIPPO:	09:57:56
5	Q Do you have any agreement --	09:57:56
6	MR. O'BEIRNE: Hold on. Give me -- let	09:57:58
7	me get back on the mic.	09:57:59
8	MR. SANFILIPPO: Oh, sorry.	09:58:00
9	THE WITNESS: Thank you. Sorry. Thank	09:58:01
10	you.	09:58:07
11	BY MR. SANFILIPPO:	09:58:11
12	Q Take your time.	09:58:11
13	A Oh, sorry.	09:58:12
14	Q No problem. Take your time. Are you	09:58:13
15	ready?	09:58:15
16	A Yeah.	09:58:15
17	Q Okay. Do you -- do you have any direct	09:58:16
18	agreement with Linden that provides you	09:58:18
19	compensation?	09:58:20
20	A Direct with Linden, no.	09:58:21
21	Q Have you ever had an agreement direct	09:58:26
22	with Linden that provides you compensation?	09:58:28
23	A No.	09:58:30
24	Q Now, did you have any involvement in	09:58:30
25	Linden's acquisition of Drug Safety Solutions?	09:58:47

1	MR. O'BEIRNE: Objection to the form and	09:58:54
2	foundation.	09:58:55
3	MR. DEMERS: You can answer.	09:58:56
4	A Did I have any involvement in the --	09:58:56
5	well, so that's a little bit of a complicated	09:59:01
6	question. Drug Safety Solutions was a component	09:59:07
7	part of a thing called MaGil IRB. I had been	09:59:10
8	working that opportunity, acquisition opportunity	09:59:15
9	for several years directly with its -- its owner,	09:59:19
10	it was a -- it was not a big entity, for the	09:59:22
11	purpose of adding an IRB and also adding some	09:59:25
12	ancillary services that they provided through the	09:59:29
13	DSS name, Drug Safety Solutions.	09:59:31
14	So I essentially took it to the -- to the	09:59:35
15	place where there was a deal on the table and a	09:59:41
16	deal consummated, or a deal framework consummated.	09:59:43
17	Subsequently, there was a decision taken to peel	09:59:48
18	off the Drug Safety Solutions component and the --	09:59:51
19	the doctor that was associated with that, who	09:59:56
20	happened to be the owner, and move that to a	09:59:59
21	different portfolio company. We retained primarily	10:00:02
22	the IRB piece. So am I familiar with the details	10:00:06
23	from a due diligence deal perspective, absolutely.	10:00:12
24	Q Okay.	10:00:16
25	A So that's how that -- that's how that	10:00:17

1 played out. So we got one part of it, which was 10:00:19
2 frankly disappointing in that that provided us, as 10:00:26
3 small as it might have been, I think an opportunity 10:00:31
4 to more -- to accelerate our expansion into 10:00:35
5 ancillary services. 10:00:38

6 Q So just to make sure I'm understanding 10:00:40
7 you right, you were disappointed that you only got 10:00:54
8 a small piece, and you felt that if you had gotten 10:00:56
9 a larger piece, you could have expanded your 10:00:58
10 opportunities in ancillary services? Is that what 10:00:59
11 you were saying? 10:01:02

12 A Yeah. 10:01:03

13 MR. O'BEIRNE: Form, foundation. 10:01:04

14 BY MR. SANFILIPPO:

15 Q Okay. 10:01:05

16 A Yeah. 10:01:05

17 Q Okay. What was it about the other piece 10:01:06
18 that you thought could have expanded your 10:01:08
19 opportunity? 10:01:12

20 A Well, we had -- we had visions to do 10:01:12
21 biosafety reviews as opposed to research reviews, 10:01:17
22 typically -- things like the, you know, messenger 10:01:22
23 RNA and those types of studies where that IRB had a 10:01:26
24 tiny footprint in an IBC space. They had three or 10:01:32
25 four projects, which we ended up keeping the 10:01:36

1 projects, but the -- the person that did that task 10:01:41
2 moved on to the -- to another portfolio company. 10:01:44
3 So that set us back from a -- let's say a 10:01:47
4 acceleration perspective. We needed to then beef 10:01:53
5 up our fledgling opportunity, if you will. 10:01:56
6 Likewise, they did some, you know, drug 10:02:02
7 safety-related services. Again, this is not -- 10:02:05
8 this is not like a gigantic company at this point, 10:02:09
9 but it was an opportunity from my perspective to 10:02:13
10 see how adjacent that service really was, in other 10:02:18
11 words, would there be pull-through from hey, we're 10:02:22
12 doing good work over here, is it a likely thing 10:02:26
13 that a large pharma might employ us to do that. 10:02:29
14 Since it had some projects, it would be -- it'd be 10:02:32
15 a way for us to expand into that -- which is a 10:02:35
16 logical adjacency from a safety perspective just by 10:02:38
17 its name, just like if the primary goal of a IRB is 10:02:44
18 to provide the safe conduct from a human 10:02:48
19 perspective of research, so it's -- was a fairly 10:02:51
20 logical scenario. 10:02:55
21 Q Were you familiar with the operations of 10:02:57
22 ProPharma? 10:03:00
23 A I know of ProPharma. I didn't -- I met 10:03:01
24 their CEO once. I didn't -- 10:03:03
25 Q Okay. 10:03:05

1	A	You know, again, they're a portfolio	10:03:06
2		company.	10:03:09
3	Q	Is it fair to say that you then disagreed	10:03:09
4		with having the majority of DSS go into ProPharma	10:03:12
5		instead of Advarra?	10:03:16
6	A	Yeah, absolutely.	10:03:18
7		MR. O'BEIRNE: Hold on. Form,	10:03:19
8		foundation.	10:03:21
9		THE WITNESS: Sorry.	10:03:21
10		MR. DEMERS: Objection. You can answer.	10:03:21
11		THE WITNESS: Yeah, I absolutely	10:03:23
12		disagreed with that decision.	10:03:25
13		BY MR. SANFILIPPO:	10:03:26
14	Q	Okay. And do you know who made that	10:03:26
15		decision?	10:03:28
16	A	No.	10:03:30
17	Q	Okay. Do you know -- strike that. Do	10:03:35
18		you have any understanding of what Mr. Donnelly's	10:03:42
19		role in sourcing that deal was?	10:03:44
20		MR. O'BEIRNE: Same.	10:03:46
21	A	Well, from my perspective, Mr. Donnelly	10:03:47
22		had no role in sourcing that opportunity.	10:03:50
23	Q	Okay.	10:03:53
24	A	That was something that I had been	10:03:54
25		working on for a period of time. It eventually --	10:03:56

1 and many of these deals where you're working with a 10:04:00
2 smaller company and the initial owner, it's a long 10:04:02
3 courtship process as opposed to a company buying 10:04:07
4 another company. So those had been ongoing 10:04:09
5 conversations over a period of years where we -- 10:04:12
6 I'd basically gotten it to a point where the -- the 10:04:17
7 owner was interested in actually considering a 10:04:20
8 transaction. 10:04:25

9 Q Are you referring to Dr. Gil Price? 10:04:26

10 A Yes. 10:04:28

11 Q Do you have any knowledge with respect to 10:04:28
12 Mr. Donnelly's relationship with Dr. Price? 10:04:30

13 A He -- I would say he had a similar 10:04:34
14 relationship that I did. He's -- you know, Gil was 10:04:37
15 a person that is reasonably well known. I know Pat 10:04:40
16 knew him from the industry. Whether they ever 10:04:44
17 worked together or not I don't recall. 10:04:47

18 Q Okay. Did you attend any meetings where 10:04:49
19 Mr. Donnelly and Mr. Price discussed the 10:04:56
20 acquisition of Drug Safety Solutions prior to the 10:04:59
21 transaction closing? 10:05:10

22 A No, no. 10:05:11

23 Q Okay. 10:05:11

24 A I was not involved with any of those 10:05:11
25 conversations, so no. 10:05:16

1 Q Okay, so you don't know when Mr. Donnelly
2 and Mr. Price started discussing such a
3 transaction?

10:05:20

10:05:23

10:05:26

4 A I don't --

5 MR. O'BEIRNE: Objection, form.

10:05:27

6 MR. DEMERS: You can answer.

10:05:28

7 A I don't know it for a fact, but I'd be --
8 I don't know, "certain" is probably too strong of a
9 word, but I doubt had that deal been on the verge
10 of being completed from a Advarra perspective, or I
11 guess it was Chesapeake at that time, that any
12 other entity within the family would have had
13 knowledge of that opportunity. So if you're asking
14 me if it's a -- again, I go back to the sourcing
15 question. I don't believe Mr. Donnelly had any
16 role in sourcing that opportunity. He certainly
17 had a role in eventually shaping its -- the
18 configuration of the deal to split things -- two
19 things apart.

10:05:28

10:05:34

10:05:36

10:05:43

10:05:48

10:05:53

10:05:57

10:05:59

10:06:04

10:06:06

10:06:09

10:06:16

10:06:20

20 Q Okay.

10:06:21

21 A Because, you know, that was clear.

10:06:21

22 Q So what -- what is the basis of your
23 belief that he didn't have any role in sourcing the
24 transaction?

10:06:24

10:06:26

10:06:28

25 A Well, I guess he never said hey, I got

10:06:28

1 this great idea, let's go purchase MaGil IRB. It 10:06:39
2 was something that had started well before Linden 10:06:44
3 even owned us. When we had conversations with the 10:06:48
4 principal, I never got a hey, by the way, I just 10:06:52
5 want to let you know you got a little channel 10:06:54
6 conflict here with your own organization because I 10:06:57
7 got another guy talking to me, another team talking 10:06:59
8 to me. That doesn't mean people aren't sometimes 10:07:02
9 not fully transparent. I'd see Gil Price as a very 10:07:05
10 transparent person, so from all those things, my 10:07:10
11 conclusion is that I'm the guy that sourced the 10:07:13
12 deal. 10:07:17

13 Q Okay. What was the basis of your 10:07:18
14 understanding that Mr. Donnelly had a role in 10:07:23
15 shaping the ultimate transaction? 10:07:27

16 A Well, he's the guy that informed me that 10:07:31
17 we were going to peel off Drug Safety Solutions to 10:07:34
18 ProPharma. 10:07:39

19 Q Okay, and how did you take that news? 10:07:39

20 A Not well. I thought it was frankly 10:07:43
21 prejudicial to good order, if you will, but I 10:07:47
22 presented my views of why I didn't think that made 10:07:52
23 sense and a decision was taken that that's the way 10:07:55
24 we went, and so you -- you know, you sold your own. 10:07:58

25 Q Okay. Who did you present your ideas on 10:08:01

1 why that wasn't a good idea to? 10:08:04

2 A Pat, and I do think it came up at a -- it 10:08:06

3 came up in a forum where I believe, you know, Tony, 10:08:13

4 Kam, myself and Pat would have been involved. 10:08:19

5 Q Do you understand -- strike that. Yeah, 10:08:22

6 do you have any understanding of who made the final 10:08:31

7 decision to split DSS off? 10:08:32

8 MR. O'BEIRNE: Form, foundation. 10:08:35

9 MR. DEMERS: You can answer. 10:08:36

10 A No one explicitly said by the way, I've 10:08:37

11 decided. 10:08:43

12 Q Okay. 10:08:43

13 A I mean, if you -- if you follow the chain 10:08:43

14 of command, again, I don't know the operating -- 10:08:46

15 operating partners or whatever status he was. He's 10:08:48

16 the CEO at that point, right, so I mean -- 10:08:52

17 Q Mr. Donnelly? 10:08:58

18 A No, he was not. No, he was not. No one 10:08:59

19 said hey, by the way, I'm the final person that 10:09:01

20 decided. 10:09:04

21 Q Okay. 10:09:05

22 A Okay. It was certainly not me. 10:09:05

23 Q Okay. Was Mr. Donnelly to your knowledge 10:09:07

24 involved in the due diligence of that deal? 10:09:15

25 MR. O'BEIRNE: Same. 10:09:17

1	MR. DEMERS: You can answer.	10:09:18
2	A Other than I guess reviewing work that'd	10:09:21
3	already been completed. This was not a gigantic --	10:09:24
4	a gigantic undertaking. It was a -- it was a	10:09:30
5	typical add-on that we got pretty good at doing.	10:09:32
6	Q So you said other than reviewing I guess	10:09:38
7	work that had already been completed. Are you	10:09:51
8	saying he did work other than work that had already	10:09:54
9	been completed or --	10:09:56
10	A No, I'm saying I led a due diligence	10:09:57
11	process to acquire what was -- we called the MaGil	10:10:02
12	IRB and its services that included all three parts.	10:10:05
13	We -- we presented our case from a business	10:10:09
14	perspective, this is why it makes sense. We	10:10:12
15	presented it from a this is an appropriate	10:10:16
16	valuation from accretive perspective or a value	10:10:19
17	creation perspective.	
18	We laid out the plan for how it would be	10:10:30
19	integrated into our entity, and we laid out the	10:10:32
20	plan of why we felt this was a potential	10:10:35
21	opportunity to expand our adjacencies. So that	10:10:38
22	work in my recollection was completely done before	10:10:41
23	the idea trans -- or presented itself that hey,	10:10:46
24	it'd be a great idea, just carve this piece off.	10:10:50
25	So other than -- whenever Pat became involved, he	10:10:54

1 would have been looking at, if I recall, completed 10:10:58
2 staff work, if you will, that just said okay, 10:11:02
3 that's the -- that's the -- you know. 10:11:05
4 Q Okay. 10:11:07
5 A That's a tight package. 10:11:07
6 Q But I'm correct that ultimately the 10:11:09
7 transaction that was completed was not the 10:11:12
8 transaction that you pitched. Is that fair to say? 10:11:14
9 A That's --
10 MR. O'BEIRNE: Form, foundation. 10:11:16
11 MR. DEMERS: You can answer. 10:11:18
12 A That's correct. 10:11:18
13 Q So do you know what if any due diligence 10:11:19
14 work Mr. Donnelly did related to the ultimate 10:11:23
15 transaction? 10:11:27
16 MR. O'BEIRNE: Same. 10:11:27
17 A I guess no. I mean, I -- I -- I know the 10:11:29
18 other CEO to my knowledge didn't do it, and there's 10:11:38
19 like -- here's what -- and my phraseology would be 10:11:41
20 here -- here's a completed, you know, body of work 10:11:46
21 that has three entities. We're going to take this 10:11:49
22 piece and move it over here, and the other piece 10:11:52
23 will stay there. So other than tick and tie in 10:11:55
24 the, you know, Johnny goes here and Mary goes over 10:11:59
25 there, nothing changed from my perspective that I 10:12:04

1 recall from the deal dynamics, meaning the price,
2 the configuration, the price or anything else. So
3 if there were due diligence done, it was -- I guess
4 -- I'm not aware of any.

5 Q Okay.

6 A And no one asked for our work papers or
7 anything else other than our presentation.

8 Q Did you have any -- a cordial
9 relationship with Mr. Donnelly, did you -- or was
10 it contentious? I mean, how would you describe --
11 strike that. How would you describe your
12 relationship with Mr. Donnelly on a personal level?

13 MR. O'BEIRNE: Objection, form,
14 foundation.

15 MR. DEMERS: You can answer.

16 A Okay. First of all, Pat's a really nice
17 guy. He's a hard guy not to like, okay? Second
18 thing is the relationship in my mind is -- is
19 pretty clear from a business perspective. He's the
20 CEO and I'm the president that supports that. So
21 regardless of if -- if I said he was the worst
22 person I ever met, that doesn't change how the
23 dynamics of the relationship from a business
24 perspective go forward, but he was a, you know,
25 nice guy to work with.

1 Do we disagree at times on decisions? We 10:13:35
2 just spent a few minutes talking about one. Okay, 10:13:39
3 I do -- if I were to characterize anything that 10:13:42
4 made it a little bit challenging was that I believe 10:13:48
5 that -- I understand the -- the role that the CEO 10:13:50
6 plays and the importance that that be supported by 10:13:56
7 any subordinate senior leader, especially one that 10:14:03
8 just got in a sense demoted from that position. So 10:14:07
9 I went out of my way to make sure that there was 10:14:12
10 nothing that I did that would ever call into 10:14:16
11 question Mr. Donnelly being the person in charge. 10:14:21
12 I think perhaps the different way of 10:14:29
13 operating is I think to some degree, Pat enjoys a 10:14:32
14 confrontational type of an approach within a 10:14:40
15 management team, and so that certainly changed the 10:14:43
16 dynamics a little bit. 10:14:47
17 Q What do you mean by Mr. Donnelly enjoys a 10:14:49
18 confrontational type of approach? 10:14:56
19 A I would describe it, I would say that he 10:14:59
20 felt maybe that better solutions arise from when 10:15:15
21 there's tension within the group as opposed to more 10:15:20
22 of a, you know, collaborative -- I don't know, 10:15:23
23 collaborative approach. I don't know how to 10:15:33
24 describe it. 10:15:35
25 Q What kinds of tensions did you feel -- I 10:15:36

1 mean, strike that. What kinds of tensions do you 10:15:41
2 mean? 10:15:45

3 A Well, it would not be uncommon for us to 10:15:47
4 have a conversation, then in the middle -- middle 10:15:56
5 of a group meeting, Pat maybe take a little bit 10:15:59
6 different divergence in what we were going to do in 10:16:06
7 a manner that was maybe not -- didn't maybe cast me 10:16:09
8 in the best light. 10:16:11

9 Now -- and I would describe most of those 10:16:14
10 as being relatively immaterial decisions. I don't 10:16:16
11 know that we ever disagreed necessarily on a 10:16:20
12 material thing, but I guess I always felt there was 10:16:23
13 a -- there was just another way to approach it I 10:16:28
14 guess. 10:16:32

15 Q So if I'm understanding, are you saying 10:16:32
16 essentially you would propose a path or -- 10:16:44

17 A Right. 10:16:47

18 Q -- something, and you would think it was 10:16:47
19 not material, and Mr. Donnelly would say no, let's 10:16:50
20 not do it that way, let's do it a different way? 10:16:54
21 Is that generally what you're saying? 10:16:55

22 MR. DEMERS: Objection to form. You can 10:16:56
23 answer. 10:16:57

24 MR. O'BEIRNE: Same. 10:16:58

25 A Yeah, it was the way that's done. I 10:16:59

1 mean, it's one -- it's one thing to have a -- to 10:17:05
2 present it as maybe not a great idea, hey, it's -- 10:17:07
3 a position is put on the table. It's going to get 10:17:12
4 tweaked. I have no issue -- in fact, that's why -- 10:17:16
5 that's what you just do. There's a way to do that 10:17:19
6 in a manner that I think encourages folks to 10:17:22
7 contribute, and there's another way to do it where 10:17:27
8 it dissuades all but the hardiest souls to dissuade 10:17:30
9 -- to present a differing opinion. 10:17:33

10 Q Okay. 10:17:37

11 A Again, it was at -- it was at -- you 10:17:40
12 know, that's just the -- hey, at the end of the 10:17:42
13 day, he's the CEO, I'm the president. I have to 10:17:44
14 adjust to how he operates, but you're going down a 10:17:48
15 line of, you know, what was the relationship, and I 10:17:52
16 was being -- I frankly answered your questions, but 10:17:54
17 those were not -- I don't think anything that was 10:17:57
18 -- but it was just different, I guess is the way to 10:18:02
19 describe it. 10:18:05

20 Q What's your understanding of how the 10:18:06
21 Schulman IRB merger was sourced? 10:18:39

22 MR. O'BEIRNE: Form, foundation. 10:18:42

23 MR. DEMERS: You can answer. 10:18:43

24 A How it was sourced, my -- or at least 10:18:45
25 what I was told was that a conversation between 10:18:52

1 Linden, I think specifically Tony Davis, and I 10:18:58
2 think it was North Lane Partners. 10:19:03
3 Q Okay. How -- how did you hear that? 10:19:06
4 A I was told in a meeting. I believe it 10:19:08
5 was a board meeting. I was a board member. 10:19:15
6 Q Do you recall who told you that? 10:19:19
7 A Tony Davis. More over the lines of the 10:19:20
8 way of hey, guys, you know, I've been approached, 10:19:27
9 what do you all think, is the way I recall. 10:19:29
10 Q Okay. And do you recall whether Mr. 10:19:32
11 Donnelly was present at that meeting? 10:19:34
12 A I believe it was a board meeting, and so 10:19:36
13 if that was the case, he would have been present, 10:19:40
14 so yeah. 10:19:42
15 Q Okay. 10:19:42
16 A I doubt that would be a conversation that 10:19:43
17 would not have occurred. That's a fairly 10:19:44
18 significant decision. 10:19:49
19 Q Sure. Do you recall Mr. Donnelly's 10:19:50
20 position with respect to the Schulman merger? 10:19:53
21 A I recall him being supportive of that 10:19:57
22 idea since when you looked at the -- during Linden 10:20:00
23 diligence on acquiring us, we spent a lot of time 10:20:07
24 on value creation, one of those components being 10:20:11
25 what are the M and A opportunities. 10:20:16

1	Q	Uh-huh.	10:20:19
2	A	Hence my -- probably my commentary	10:20:21
3		earlier on the Drug Safety, but Schulman was -- we	10:20:24
4		were like second and third largest entities that	10:20:29
5		did this. If you view that consolidation was going	10:20:33
6		to occur, which it actually has, that's an	10:20:36
7		opportunity that I think almost anyone would at	10:20:41
8		least pursue.	10:20:44
9	Q	So you also supported --	10:20:46
10	A	Oh, absolutely. Yeah, I'd been -- I'd	10:20:50
11		been trying to do it to the extent that, you know,	10:20:52
12		I mean, that's -- we had a -- it was just a logical	10:20:57
13		thing to do.	10:21:03
14	Q	What efforts had you undertaken to --	10:21:04
15	A	Well --	10:21:08
16		MR. DEMERS: Just allow him to --	10:21:09
17		THE WITNESS: Yeah.	
18		MR. DEMERS: -- finish the question so	10:21:10
19		that the --	10:21:11
20		THE WITNESS: Sorry.	10:21:12
21		MR. DEMERS: -- court reporter can take	10:21:14
22		it down.	10:21:15
23		THE WITNESS: Sorry.	10:21:15
24		BY MR. SANFILIPPO:	10:21:16
25	Q	It's quite all right, sir. What I asked	10:21:16

1 was what efforts did you undertake to make that 10:21:18
2 happen. 10:21:22

3 A Let me -- let me clarify that comment 10:21:22
4 because actions under -- actions that would have 10:21:28
5 been undertaken infers there was actual 10:21:31
6 presentation of a deal or an opportunity. We -- 10:21:38
7 we, a number of CEOs of IRBs kind of all saw it the 10:21:44
8 same way, that there was opportunities for 10:21:54
9 consolidation in that perspective. We -- we, and I 10:21:56
10 personally had a very high respect for the -- the 10:22:00
11 Schulman operation. Back to the deal sourcing, as 10:22:05
12 far as I'm concerned, it came from, you know, the 10:22:19
13 private equity companies. 10:22:22

14 Q Do you know what if any Mr. Donnelly -- 10:22:26
15 strike that. Do you know what if any involvement 10:22:36
16 Mr. Donnelly had in drafting a deal proposal for 10:22:38
17 that merger? 10:22:44

18 MR. DEMERS: Objection. You can answer. 10:22:46

19 A I have no knowledge of how the -- let's 10:22:47
20 say the framework was initially created. 10:22:55

21 Q Do you have any knowledge with respect to 10:23:01
22 Mr. Donnelly's attendance of meetings related to 10:23:03
23 that transaction? 10:23:08

24 A The only meetings that I'm familiar with 10:23:09
25 on this topic are as I described before, were some 10:23:12

1 initial, you know, discussions between myself and 10:23:16
2 the other CEO with -- you know, consult with our 10:23:23
3 respective parties until there was a -- we had 10:23:27
4 collectively agreed that there was an opportunity 10:23:31
5 worth pursuing. I don't -- I know of no 10:23:35
6 conversations between Mr. Donnelly and any other 10:23:41
7 entity that wasn't Linden related. 10:23:45

8 Q Okay. As CEO of Chesapeake, did you 10:23:48
9 attend Monday morning meetings with Linden? 10:23:54

10 MR. O'BEIRNE: Objection, form, 10:23:59
11 foundation. 10:24:00

12 MR. DEMERS: You can answer. 10:24:00

13 A Okay, if -- if you're referring to the 10:24:01
14 Monday morning meetings that a typical private 10:24:04
15 equity company would have, the answer would be no. 10:24:09
16 We were on a weekly call-in meeting for a period of 10:24:12
17 time, first couple months. 10:24:16

18 Q First couple months? 10:24:19

19 A Yeah, maybe eight months, so something 10:24:21
20 like that. 10:24:26

21 Q How long were you the CEO of Chesapeake 10:24:26
22 while Linden owned the company? 10:24:30

23 A Until they acquired Advarra, so it would 10:24:31
24 have from -- they acquired us in the -- December 10:24:36
25 31st of 2015, and I believe the Schulman deal 10:24:39

1	closed like October-November of maybe '17. I'm not	10:24:52
2	sure that's right, but --	10:24:58
3	Q Okay. Was it your understanding that --	10:24:59
4	strike that. Do you have an understanding of	10:25:12
5	whether or not attending the Monday morning	10:25:18
6	meetings was part of your duties as CEO?	10:25:21
7	MR. O'BEIRNE: Objection, form,	10:25:28
8	foundation.	10:25:28
9	MR. DEMERS: You can answer.	10:25:29
10	A I -- I don't know that any portfolio	10:25:30
11	company's CEO attends what I'm calling the typical	10:25:35
12	firm-wide management of a PE's meetings for --	10:25:39
13	unless they're invited to address the group	10:25:45
14	probably for something that's not going so well.	10:25:48
15	That would be -- you would have access to a lot of	10:25:53
16	information that would be private to those	10:25:58
17	individual holdings, so I'm not aware of any CEO of	10:26:01
18	a private equity portfolio company participating in	10:26:06
19	Monday morning meetings.	10:26:12
20	Q Okay. Do you know whether Linden's	10:26:13
21	operating partners attended the Monday morning	10:26:17
22	meetings?	10:26:20
23	MR. O'BEIRNE: Same.	10:26:20
24	MR. DEMERS: Objection. You can answer.	10:26:22
25	A I have no firsthand knowledge whether	10:26:23

1 they did or not. I would suspect they did in 10:26:25
2 probably, you know, a cameo. Like, you know, Pat 10:26:34
3 might have come in to talk about his portfolio 10:26:36
4 companies. I doubt they would have been there for 10:26:39
5 the entire proceedings, but I have no firsthand 10:26:42
6 knowledge. 10:26:49

7 Q Do you have an understanding of Mr. 10:26:55
8 Donnelly's involvement with respect to the due 10:26:57
9 diligence of the Chesapeake-Schulman merger? 10:27:00

10 MR. O'BEIRNE: Form, foundation. 10:27:04

11 MR. DEMERS: You can answer. 10:27:05

12 A Once we got the -- you know, once we had 10:27:06
13 the decision to move forward, I would say his role 10:27:18
14 is -- would be as you expected. I primarily led 10:27:23
15 the operational perspective, meaning when we bring 10:27:26
16 these two things together, what would be the 10:27:32
17 synergies, what would be the potential add-ons we 10:27:35
18 might need, you know, who might be in charge of the 10:27:39
19 various components of the -- the IRB operation, if 10:27:43
20 you will, and the -- the financials associated with 10:27:46
21 that, here's their numbers, here's our numbers, 10:27:48
22 when we bring these things together, what are the 10:27:51
23 synergies from a savings perspective, what the 10:27:55
24 synergies from additional resources needed to 10:27:56
25 accelerate the expansion of that and the attendant 10:28:00

1 financial implications of the deal moving forward. 10:28:04
2 Your next participant here would have 10:28:09
3 been the person as CFO to like, you know, make -- 10:28:12
4 grind through all those details, make sure 10:28:17
5 everything comes together, and also would have 10:28:20
6 looked at the corporate functions like, you know, 10:28:22
7 finance and treasury and all those types of things. 10:28:25
8 Q I apologize, but I'm not sure you 10:28:33
9 answered my question. 10:28:36
10 A Okay. 10:28:37
11 Q I was asking if you had any knowledge 10:28:37
12 related to Mr. Donnelly's involvement in the due 10:28:39
13 diligence process. 10:28:44
14 A Okay. I'm sorry, I'm sorry, that was -- 10:28:45
15 you're right. That was a nonresponsive question. 10:28:46
16 Sorry -- or answer. Sorry. 10:28:49
17 Q No problem at all. 10:28:50
18 A Pat would have reviewed the work that I 10:28:52
19 just described. Obviously -- and you know, he was 10:28:55
20 -- I would say he was involved in that to a good 10:28:59
21 degree. 10:29:03
22 MR. DEMERS: We getting close to a good 10:29:04
23 break point? 10:29:09
24 MR. SANFILIPPO: Yeah, we can break now 10:29:10
25 if you want, if you want a break sir?

Transcript of Jeffrey Wendel
Conducted on September 30, 2021

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1	THE WITNESS: Sure, that's fine.	
2	MR. SANFILIPPO: I don't have much more	10:29:13
3	honestly.	10:29:15
4	THE VIDEOGRAPHER: Please stand by. Here	10:29:15
5	marks the end in Disk Number 1 in the videotaped	10:29:20
6	deposition of Jeff Wendel. We are off the record	10:29:25
7	at 10:29 a.m.	10:29:29
8	(Recessed at 10:29 a.m.)	10:45:44
9	(Reconvened at 10:45 a.m.)	10:45:44
10	THE VIDEOGRAPHER: Here begins Disk	10:45:52
11	Number 2 in the videotaped deposition of Jeff	10:45:53
12	Wendel. We are back on the record at 10:45 a.m.	10:45:56
13	BY MR. SANFILIPPO:	10:46:00
14	Q Do you know -- strike that. Did you	10:46:00
15	receive a closing bonus with respect to the sale of	10:46:12
16	Advarra?	10:46:19
17	A Oh, a closing bonus. I thought you said	10:46:20
18	a clothing bonus.	10:46:24
19	Q Yeah.	10:46:24
20	MR. O'BEIRNE: Obviously you did.	10:46:26
21	A Seriously. Yes, I did. Yes, I did.	10:46:27
22	Q Do you know how that bonus was	10:46:31
23	negotiated?	10:46:33
24	A Not precisely. I do know that we	10:46:34
25	eventually -- you're talking about the closing --	10:46:46

1	I'm sorry, the closing of Advarra's sale to	10:46:50
2	Genstar?	10:46:54
3	Q Correct.	10:46:55
4	A I don't think there was a closing bonus.	10:46:55
5	Q Okay.	10:47:03
6	A I don't recall one.	10:47:03
7	Q So you don't -- you don't recall	10:47:04
8	receiving anything -- a success fee or anything	10:47:06
9	like that?	10:47:08
10	A I don't -- I mean, it sounds dumb, but I	10:47:09
11	don't -- I don't recall having a -- I believe -- or	10:47:14
12	I recall my compensation was related to the --	10:47:20
13	let's say the proceeds from the -- from the sale.	10:47:24
14	No additional.	10:47:27
15	Q Okay. Do you -- did you receive a	10:47:30
16	closing fee or bonus upon the merger of Chesapeake	10:47:34
17	and Schulman?	10:47:40
18	A Yes.	10:47:41
19	Q Okay, and do you know how that was	10:47:48
20	negotiated?	10:47:50
21	A I initially proposed a -- that a certain	10:47:50
22	group be provided transaction bonus, if you will,	10:48:01
23	and we came up with a number. I'm assuming -- I	10:48:07
24	would say I presented a number or a proposal, and	10:48:11
25	it came back to me as here's the number, you	10:48:18

1	allocate it. The conduit for getting that piece of	10:48:22
2	information was Mr. Donnelly --	10:48:26
3	Q Okay.	10:48:28
4	A -- again, in accordance with the chain of	10:48:29
5	command.	10:48:31
6	Q Okay. In conjunction with the sale of	10:48:32
7	Advarra, do you know if Mr. Donnelly ever advocated	10:48:34
8	for you to receive a closing bonus?	10:48:38
9	MR. O'BEIRNE: Form, foundation.	10:48:41
10	MR. DEMERS: You can answer.	10:48:43
11	A No.	10:48:44
12	Q Do you know whether Linden itself paid	10:48:51
13	anything -- any funds to acquire Schulman?	10:49:11
14	MR. O'BEIRNE: Form, foundation.	10:49:16
15	MR. DEMERS: You can answer.	10:49:17
16	A I'm not sure I understand the question.	10:49:20
17	You're asking me did Linden pay any funds --	10:49:22
18	Q Yeah, let me rephrase the question.	10:49:26
19	A Okay, I just want --	10:49:28
20	Q Do you know if Linden took any of the	10:49:29
21	capital of the fund and used it to acquire	10:49:32
22	Schulman?	10:49:37
23	MR. O'BEIRNE: Same.	10:49:38
24	MR. DEMERS: You can answer.	10:49:39
25	A So let me state the question in my words	10:49:40

1	and we can go from there. I think you're asking me	10:49:44
2	as opposed to financing it with debt, did Linden	10:49:48
3	contribute equity and/or debt to consummate the	10:49:52
4	transaction. Is that -- is that the question?	10:49:58
5	Q Well, I mean, when you say contribute	10:49:59
6	equity, what do you mean by that?	10:50:02
7	MR. O'BEIRNE: Form, foundation.	10:50:06
8	MR. DEMERS: You can answer.	10:50:07
9	A So to me, there's -- there would be two	10:50:07
10	sources of -- typically of a deal. One would be,	10:50:11
11	you know, much like your home mortgage, I'm going	10:50:19
12	to put so much of my cash down, and the rest is	10:50:22
13	going to be financed from typically a -- you know,	10:50:26
14	a prime and mezzanine subordinate debt.	10:50:29
15	Q Right.	10:50:32
16	A So if you're asking me did Linden put	10:50:33
17	money down on their mortgage, I don't recall.	10:50:37
18	Q Did you -- did you ever discuss the term	10:50:42
19	or the definition of the term "equity investment"	10:50:55
20	with people who were employees of Linden?	10:50:59
21	MR. O'BEIRNE: Objection.	10:51:02
22	MR. DEMERS: Objection.	10:51:03
23	MR. O'BEIRNE: Yeah, objection, form,	10:51:04
24	foundation, legal conclusion.	10:51:05
25	MR. DEMERS: You can answer.	10:51:07

1	THE WITNESS: Did I discuss the term	10:51:10
2	"equity investment."	10:51:11
3	BY MR. SANFILIPPO:	10:51:12
4	Q Let me strike that question and --	10:51:12
5	A Okay.	10:51:14
6	Q Just to be clear, did you ever discuss a	10:51:14
7	definition of the term "equity investment" with	10:51:16
8	employees of Linden?	10:51:18
9	MR. O'BEIRNE: Same.	10:51:21
10	MR. DEMERS: Same objection. You can	10:51:22
11	answer.	10:51:24
12	A I guess not, no. Not that I recall.	10:51:24
13	Q Okay. Do you know at the end of the	10:51:28
14	Schulman-Chesapeake merger -- strike that. Do you	10:52:02
15	know whether at the end of the Chesapeake-Schulman	10:52:07
16	merger, Linden owned any of the Chesapeake?	10:52:15
17	MR. O'BEIRNE: Form, foundation.	10:52:20
18	MR. DEMERS: You can answer.	10:52:21
19	A Assuming ownership is equity, it's my	10:52:22
20	belief that they -- belief and recollection that	10:52:36
21	they owned equity in the -- the result of the	10:52:40
22	Schulman and Chesapeake merger to create Advarra.	10:52:44
23	Q Okay. How many private equity firms have	10:52:49
24	you worked with total?	10:52:57
25	A Three.	10:53:00

1	Q	Okay. So when I say to you make an	10:53:03
2		equity investment, a private equity firm makes an	10:53:10
3		equity investment, what does that mean to you?	10:53:15
4	MR. O'BEIRNE:	Form, foundation.	10:53:17
5	MR. DEMERS:	You can answer.	10:53:18
6	A	Well, so to me, the term "equity" would	10:53:19
7		probably come to play in two ways as a person. One	10:53:27
8		would be I'd make an equity investment or a	10:53:31
9		commitment to a fund, so I would invest in, you	10:53:35
10		know, fund 7 of private equity company X. I am not	10:53:38
11		aware of any vehicle for an individual investor to	10:53:45
12		make an equity -- or at least not that's been	10:53:50
13		afforded to me, to make a partnership-like equity	10:53:54
14		investment.	10:54:00
15		As far as it relates to a deal, my	10:54:01
16		understanding of the term "equity" is that at least	10:54:03
17		in my experience, the deals have either had two	10:54:09
18		components, an equity and a debt component, or	10:54:13
19		perhaps I guess potentially a total equity. In	10:54:19
20		other words, I buy -- we merge together and I give	10:54:23
21		you -- all of your proceeds are in equity, or we	10:54:27
22		decide the other spectrum would be I give all of	10:54:32
23		your proceeds in cash. I have typically seen	10:54:35
24		things that have been a combination of equity and	10:54:40
25		debt to finance the transaction. I'm not sure	10:54:44

1 that's the question you're asking. 10:54:48

2 Q Is it your understanding that equity 10:54:51

3 investment refers to the source of the funds or the 10:54:53

4 use of the funds or both? 10:54:58

5 MR. O'BEIRNE: Objection. 10:55:01

6 MR. DEMERS: Objection. 10:55:01

7 MR. O'BEIRNE: Leading and compound. 10:55:02

8 MR. DEMERS: You can answer. 10:55:04

9 A Okay, I'm obviously, you know, missing a 10:55:05

10 key point here, but to me, equity is ownership in 10:55:08

11 an organization. Any other thing, debt, is a -- 10:55:12

12 you know, a note against the -- the potential 10:55:19

13 equity of a -- of an organization. So do I know -- 10:55:21

14 do I believe that equity is involved in 10:55:25

15 transactions? My answer would be yes. 10:55:30

16 Q Are the terms "equity" and "ownership" 10:55:34

17 synonymous? 10:55:47

18 MR. O'BEIRNE: Same. 10:55:49

19 MR. DEMERS: Objection. You can answer. 10:55:49

20 A Equity would be -- your percentage of 10:55:50

21 equity, if you owned ten percent of the equity, you 10:56:03

22 would own ten percent of the company, much like if 10:56:06

23 I own one share of IBM, I own one ten billionth of 10:56:10

24 the equity of IBM. 10:56:17

25 Q I'm going to propose a definition for the 10:56:19

1 term "equity investment." I want to see if you 10:56:48
2 agree with it, disagree with it, how you feel about 10:56:51
3 it. 10:56:54

4 A Okay. 10:56:54

5 Q Equity investment is using capital to 10:56:55
6 take an ownership position for the purpose of 10:57:00
7 generating a return. 10:57:04

8 MR. O'BEIRNE: Hold on. Objection, 10:57:06
9 incomplete hypothetical, and to the extent it calls 10:57:07
10 for a legal -- 10:57:10

11 MR. SANFILIPPO: My question's -- 10:57:10

12 MR. O'BEIRNE: It was not -- 10:57:10

13 MR. SANFILIPPO: No, I --

14 MR. O'BEIRNE: Okay.

15 BY MR. SANFILIPPO:

16 Q Do you agree with that definition? Now 10:57:16
17 you can make your record. 10:57:18

18 MR. O'BEIRNE: Sorry, that's what you
19 asked at the beginning, so I thought you were done. 10:57:19
20 Incomplete hypothetical and to the extent it calls 10:57:21
21 for a legal conclusion. 10:57:23

22 MR. DEMERS: Same objection. You can 10:57:24
23 answer. 10:57:25

24 THE WITNESS: Can you restate your 10:57:27
25 definition of equity? 10:57:28

Transcript of Jeffrey Wendel
Conducted on September 30, 2021

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1	MR. SANFILIPPO: Will the reporter please	10:57:30
2	read the question back to the witness?	10:57:32
3	THE REPORTER: Question: "Equity	10:57:48
4	investment is using capital to take an ownership	
5	position for the purpose of generating a return."	
6	MR. O'BEIRNE: Same.	10:57:50
7	MR. DEMERS: Same. You can answer.	10:57:51
8	THE WITNESS: I would agree with that	10:57:55
9	statement.	10:57:58
10	BY MR. SANFILIPPO:	10:57:59
11	Q When a private -- strike that. If a	10:57:59
12	private equity company were to say to you "capital	10:58:26
13	invested," what would you take that term to mean?	10:58:35
14	MR. O'BEIRNE: Object. Sorry, you go	10:58:40
15	first.	10:58:42
16	MR. DEMERS: Objection to form.	10:58:43
17	MR. O'BEIRNE: Yeah, incomplete	10:58:45
18	hypothetical, calls for speculation.	10:58:46
19	MR. DEMERS: You can answer.	10:58:48
20	MR. SANFILIPPO: I would object to the	10:58:49
21	speaking objection. Incomplete hypothetical is a	10:58:51
22	form objection.	10:58:52
23	MR. DEMERS: You can answer.	10:58:53
24	THE WITNESS: Okay, I'm sorry, I need to	10:58:54
25	ask you to repeat the question.	10:58:56

1	MR. O'BEIRNE: Before you do, to the	10:58:58
2	extent that you're asking questions that are	10:59:00
3	objectionable on multiple bases, I'm trying to help	10:59:01
4	by providing more specifics on the basis of my	10:59:05
5	objection so that you can fix the question.	10:59:07
6	MR. SANFILIPPO: I would ask that you	10:59:08
7	make a form objection. If I would like to clarify	10:59:09
8	what your form objection is, I will ask.	10:59:11
9	MR. O'BEIRNE: Okay, I'm going to	10:59:14
10	continue making them as I see proper, but I	10:59:15
11	understand what you're saying. I just wanted to	10:59:18
12	explain what I was doing.	10:59:18
13	MR. SANFILIPPO: Okay, well, I continue	10:59:19
14	to note my objection your speaking objections.	10:59:20
15	Will the court reporter please read the question	10:59:24
16	back to the witness?	10:59:25
17	THE REPORTER: Question: "If a private	10:59:39
18	equity company were to say to you 'capital	
19	invested,' what would you take that term to mean?"	
20	MR. O'BEIRNE: Same.	10:59:40
21	MR. DEMERS: Same. You can answer.	10:59:40
22	THE WITNESS: Okay, I would mean that	10:59:42
23	they took their capital to, for lack of a better	10:59:44
24	term, acquire equity in an entity that they are	10:59:50
25	typically purchasing, and that is -- my commentary	10:59:55

1 earlier would have said that there is also 11:00:02
2 potentially a debt component to finance that sale. 11:00:06
3 In my mind, I'm crystal clear the difference 11:00:11
4 between equity and debt. Equity -- taking capital 11:00:14
5 to provide -- to purchase a component of the equity 11:00:18
6 in my view is money devoted to purchase ownership 11:00:24
7 in that entity. 11:00:30
8 BY MR. SANFILIPPO: 11:00:33
9 Q Okay, was there -- was there anything 11:00:33
10 about my question that you didn't understand? 11:00:36
11 A Well, I guess I would characterize it as 11:00:38
12 what I think is a pretty simple topic. We kind of 11:00:45
13 -- I don't know that my answer has changed in 11:00:53
14 regards to how the question has been phrased, so 11:00:55
15 I'm just perplexed by that, but that's -- 11:00:59
16 Q Do these seem like very basic concepts to 11:01:02
17 you? 11:01:06
18 A Yeah. 11:01:06
19 Q Are these terms commonly used in your 11:01:06
20 experience in the private equity world? 11:01:20
21 MR. O'BEIRNE: Form, foundation. 11:01:22
22 MR. DEMERS: Objection. You can answer. 11:01:23
23 A I'm not sure I have direct knowledge of 11:01:25
24 that, but I've experienced that type of discussion. 11:01:32
25 Q Have you ever known these terms to mean 11:01:39

1	anything other than what you've described here	11:01:41
2	today?	11:01:43
3	MR. O'BEIRNE: Same.	11:01:44
4	MR. DEMERS: Same objection. You can	11:01:44
5	answer.	11:01:46
6	A No.	11:01:46
7	Q After Mr. Donnelly became CEO of Advarra,	11:01:50
8	do you know if Linden continued to refer to him as	11:02:20
9	an operating partner?	11:02:23
10	MR. O'BEIRNE: Same.	11:02:26
11	MR. DEMERS: Objection. You can answer.	11:02:26
12	A I do not know.	11:02:27
13	Q Have you ever seen Mr. Donnelly listed on	11:02:28
14	Linden's web site?	11:02:41
15	A Yes.	11:02:45
16	Q Okay. Do you know how he was listed on	11:02:45
17	Linden's web site?	11:02:49
18	MR. DEMERS: Objection.	11:02:50
19	MR. O'BEIRNE: Yeah, form, foundation.	11:02:51
20	MR. DEMERS: You can answer.	11:02:54
21	A At one point he was listed as an	11:02:54
22	operating partner.	11:02:56
23	Q Do you know when he stopped being listed	11:02:57
24	as an operator partner on Linden's web site?	11:02:58
25	MR. O'BEIRNE: Same.	11:03:03

1	MR. DEMERS: Same objection. You can	11:03:03
2	answer.	11:03:04
3	A No, I do not.	11:03:04
4	Q When did Linden -- strike that. When	11:03:05
5	did the idea to first sell Advarra to Genstar or	11:03:38
6	anyone come about?	11:03:41
7	MR. O'BEIRNE: Form, foundation.	11:03:43
8	MR. DEMERS: Objection. You can answer.	11:03:44
9	A So I would say with a typical private	11:03:47
10	equity hold, you get to a point in the hold -- in	11:03:52
11	the hold period when you evaluate the market,	11:03:55
12	evaluate the performance of the individual entity,	11:04:01
13	evaluate potential demand, and then sometimes	11:04:06
14	there's a -- what I'll call fund dynamics that come	11:04:08
15	into play as well, but from a -- from a practical	11:04:12
16	perspective, I think at least the way I've	11:04:15
17	approached it as when you're in a private equity	11:04:18
18	ownership, from day one, you're in a sense	11:04:22
19	considered -- preparing, considering, evaluating a	11:04:25
20	potential sale down the road. There's no	11:04:28
21	expectation that a private equity firm is going to	11:04:34
22	hold you in perpetuity, and so that's -- so it's --	11:04:36
23	it's a constant process.	11:04:41
24	Q Okay. Do you know when sort of the sale	11:04:43
25	of Advarra went from theoretical to something that	11:04:54

1	was actually being considered?	11:04:57
2	MR. O'BEIRNE: Form, foundation.	11:04:58
3	MR. DEMERS: Objection. You can answer.	11:04:58
4	A Well, they were -- it was discussed at	11:05:01
5	board meetings, but I think we -- I would say we	11:05:04
6	got serious with it in the early part of -- maybe	11:05:07
7	the late part of '18 or the early part of '19,	11:05:17
8	given that the close was in July of '19.	11:05:20
9	Q How did you first hear about that?	11:05:23
10	A Well, it was an ongoing -- as I	11:05:39
11	mentioned, in a board perspective, it was an	11:05:42
12	ongoing discussion, and then at whenever it was we	11:05:44
13	decided, we say hey, we're going to start a	11:05:47
14	process.	11:05:50
15	Q What was Mr. Donnelly's role in that?	11:05:51
16	A Well, he played the -- the role you would	11:05:55
17	expect of a CEO.	11:05:59
18	Q Okay. What role was that?	11:06:01
19	A Well, again, he would be part of the team	11:06:04
20	that would help the board evaluate, you know,	11:06:10
21	whether this was the right time, assuming that	11:06:16
22	those inputs are -- you know, sometimes I guess	11:06:19
23	it's a tell. That's not been my experience, but --	11:06:21
24	and then would, you know, oversee the preparation	11:06:24
25	of the entity for sale, which again, as I	11:06:28

1	mentioned, is something that we routinely have done	11:06:31
2	since I've been in the organization on an ongoing	11:06:35
3	basis.	11:06:37
4	Q Do you know if Mr. Donnelly attended	11:06:38
5	Monday morning meetings with respect to the sale of	11:06:41
6	Advarra?	11:06:44
7	A No, I do not.	11:06:45
8	MR. O'BEIRNE: Form, foundation.	11:06:48
9	BY MR. SANFILIPPO:	11:06:49
10	Q Would you expect Mr. Donnelly to have	11:06:49
11	attended Monday morning meetings with respect to	11:06:52
12	the sale of Advarra?	11:06:54
13	MR. DEMERS: Objection. You can answer.	11:06:56
14	A I don't know that I have any basis for --	11:06:57
15	I certainly have no firsthand knowledge of whether	11:07:00
16	a company that's -- a portfolio company that's	11:07:04
17	typically thinking about this, whether that CEO	11:07:07
18	presents to the Monday morning meeting.	11:07:10
19	MR. O'BEIRNE: That's a sound I haven't	11:07:31
20	heard in a while.	11:07:34
21	THE WITNESS: Yeah, I was going to say,	11:07:34
22	it's like from the back in the rack there. I	11:07:35
23	thought I might be the only guy in the room that	11:07:36
24	even knew what that even was.	11:07:40
25	BY MR. SANFILIPPO:	11:07:40

1	Q	No way. Do you know if -- in your	11:07:41
2		opinion, did Mr. Donnelly do any work with respect	11:07:50
3		to the sale of Advarra that was atypical for	11:07:56
4		someone who was solely the CEO of a company?	11:08:00
5	MR. DEMERS:	Objection to form.	11:08:04
6	MR. O'BEIRNE:	Yeah, and foundation.	11:08:05
7	MR. DEMERS:	You can answer.	11:08:06
8	A	I'm not -- I'm not aware of any.	11:08:08
9	Q	Would you be surprised to find out that	11:08:14
10		Mr. Donnelly did advocate for you receiving a	11:08:45
11		closing fee for the sale of Advarra?	11:08:49
12	MR. O'BEIRNE:	Same.	11:08:52
13	MR. DEMERS:	Objection to form. You can	11:08:52
14		answer.	11:08:53
15	A	No, I guess I wouldn't be surprised. I	11:08:54
16		wouldn't be surprised on the yay or the nay of that	11:09:01
17		question.	11:09:04
18	Q	Sir, I'm almost done I think. I just	11:09:05
19		need to ask you a few basic questions here. Do you	11:09:28
20		have any knowledge related to ProPharma Group's	11:09:31
21		acquisition of Xendo?	11:09:34
22	A	No.	11:09:35
23	Q	Do you have any knowledge with respect to	11:09:36
24		ProPharma Group's acquisition of Sofus?	11:09:38
25	A	No.	11:09:40

1	Q	Do you have any knowledge with respect to	11:09:41
2		ProPharma Group's acquisition of Solutions in	11:09:42
3		Health?	11:09:45
4	A	No.	11:09:46
5	Q	Okay. Are there any questions I didn't	11:09:47
6		ask that you thought I would ask you today?	11:10:02
7		MR. DEMERS: Objection.	11:10:06
8		MR. O'BEIRNE: Yeah, objection.	11:10:06
9		MR. DEMERS: I'm not sure the witness can	11:10:13
10		answer --	11:10:15
11		MR. O'BEIRNE: Yeah, I might direct him	11:10:15
12		not to answer that one.	11:10:17
13		THE WITNESS: Yeah, I'm going to --	11:10:18
14		BY MR. SANFILIPPO:	11:10:19
15	Q	Is there anything that we haven't	11:10:19
16		discussed that you thought might be relevant to our	11:10:22
17		discussion?	11:10:24
18		MR. O'BEIRNE: Same.	11:10:25
19		MR. DEMERS: Objection, asking the	11:10:26
20		witness to try to determine what's relevant and	11:10:28
21		what's not.	11:10:30
22		MR. SANFILIPPO: Are you instructing him	11:10:31
23		not to answer or are you just -- I mean, okay, your	11:10:32
24		objections are made for the record.	11:10:34
25		MR. DEMERS: Well, look, I don't think	11:10:39

1	this question was part of the noticed deposition	11:10:40
2	topics.	11:10:43
3	MR. SANFILIPPO: So you're instructing	11:10:44
4	him not to answer? I just want a record on this	11:10:45
5	one way or the other.	
6	MR. O'BEIRNE: I'd caution him not to	11:10:47
7	reveal any privileged communications.	11:10:50
8	MR. DEMERS: Certainly.	
9	MR. O'BEIRNE: And remind you're not	11:10:51
10	required to speculate as that what counsel might	11:10:52
11	have asked you.	11:10:55
12	MR. DEMERS: So I'll instruct the witness	11:10:55
13	not to tread into any attorney-client privileged	11:10:58
14	communications. He has an answer to the question,	11:11:02
15	he can answer it. If not, I think we're done.	11:11:04
16	THE WITNESS: Okay, can we restate or	11:11:07
17	replay the question please?	11:11:09
18	THE REPORTER: Question: "Is there	11:11:20
19	anything that we haven't discussed that you thought	
20	might be relevant to our discussion?"	
21	MR. O'BEIRNE: Same.	11:11:21
22	MR. DEMERS: Same instruction. You can	11:11:23
23	answer if you can.	11:11:24
24	THE WITNESS: No.	11:11:26
25	MR. SANFILIPPO: Okay, great, thank you,	11:11:27

1	Mr. Wendel. I really appreciate your time today.	11:11:29
2	MR. O'BEIRNE: Mr. Wendel, I actually	11:11:32
3	have a couple follow-up questions based on what --	11:11:33
4	THE WITNESS: Oh, sorry, sorry.	11:11:35
5	MR. SANFILIPPO: Mr. O'Beirne's going to	11:11:36
6	ask you a couple questions.	11:11:37
7	THE WITNESS: Okay.	11:11:38
8	MR. SANFILIPPO: I may have some	11:11:38
9	follow-up questions based on what he asks you.	11:11:39
10	THE WITNESS: Okay.	11:11:40
11	MR. SANFILIPPO: Appreciate it.	11:11:41
12	EXAMINATION BY COUNSEL FOR THE DEFENDANTS	
13	BY MR. O'BEIRNE:	11:11:42
14	Q Having come back previously from a break,	11:11:42
15	are we okay to continue or do --	11:11:46
16	A Yeah, no, we're okay to go.	11:11:46
17	Q Great.	11:11:48
18	A I just got to look in a different	11:11:49
19	direction.	11:11:52
20	Q That's right, I'm over here. Mr. Wendel,	11:11:52
21	I just -- you were asked some questions by Mr.	11:11:56
22	SanFilippo this morning. On a couple of topics. I	11:11:57
23	just wanted to ask you a couple of follow-up	11:11:59
24	questions on those, but first, don't hold it	11:12:01
25	against me. I'm a former Army guy.	11:12:03

1	A	Okay.	11:12:05
2	Q	But my grandparents retired to Hanover	11:12:05
3		Street just off the back eight by the chapel, so we	
4		used to run around --	
5	A	Oh, wow.	
6	Q	-- the obstacle course as kids.	
7	A	Oh, wow.	
8	Q	Till the chief petty officer yelled at	
9		us.	11:12:16
10		MR. SANFILIPPO: Objection, form.	11:12:16
11		BY MR. O'BEIRNE:	11:12:17
12	Q	There's no question. You were asked some	11:12:17
13		questions about the merger of Chesapeake and	11:12:22
14		Schulman. I wanted to direct your attention back	11:12:27
15		to that.	11:12:29
16	A	Okay.	11:12:29
17	Q	I understood your testimony to be at that	11:12:30
18		time that there were a handful of IRB companies,	11:12:34
19		and that one of them that was known to Chesapeake	11:12:37
20		was Schulman. Is that accurate?	11:12:39
21	A	That's right.	11:12:41
22		MR. SANFILIPPO: Objection, form.	11:12:42
23		BY MR. O'BEIRNE:	11:12:44
24	Q	Would you use the term "source" to	11:12:44
25		describe how you became aware of the existence of	11:12:46

1	Schulman?	11:12:49
2	MR. SANFILIPPO: Objection, form.	11:12:50
3	MR. DEMERS: Same objection. You can	11:12:51
4	answer.	11:12:53
5	A Well, how I became aware of it, I	11:12:54
6	probably became aware of that when I first agreed	11:12:57
7	to join Chesapeake IRB with the premise of, as I	11:12:59
8	said earlier, installing an enterprise system that	11:13:05
9	would give us sort of a force multiplier advantage,	11:13:10
10	if you will, consider mergers and acquisitions that	11:13:13
11	would grow the company to create value, and	11:13:16
12	eventually sell the company. So part of the -- my	11:13:19
13	due diligence of deciding to join was were there --	11:13:24
14	you know, did the organization have the wherewithal	11:13:28
15	to do it, were there opportunities through a merger	11:13:31
16	and acquire.	11:13:34
17	Q What knowledge about the existence of	11:13:35
18	Schulman did you need from Mr. Donnelly prior to	11:13:39
19	contemplating whether it made sense for Chesapeake	11:13:42
20	to do?	11:13:45
21	MR. SANFILIPPO: Objection, form.	11:13:46
22	MR. DEMERS: Same objection. You can	11:13:47
23	answer.	11:13:48
24	A I don't think that I needed any	11:13:48
25	information.	11:13:51

1	Q	Mr. Donnelly was the chairman of the	11:13:52
2		board of Chesapeake starting after Linden's	11:13:59
3		acquisition, correct?	11:14:02
4	A	That's what I recall, yes.	11:14:05
5	Q	Do you have an understanding as to	11:14:06
6		whether he was compensated by Chesapeake for his	11:14:08
7		role as chairman?	11:14:12
8		MR. SANFILIPPO: Objection, form.	11:14:13
9		MR. DEMERS: You can answer.	11:14:15
10	A	I should know that answer. I don't	11:14:15
11		recall. I recall that he was compensated. I would	11:14:23
12		guess that came out of our pocket, but I'm not	11:14:31
13		sure.	11:14:34
14	Q	Setting aside where it was coming from,	11:14:35
15		was it was your understanding that the members of	11:14:37
16		the board, to include a chairman, that the chairman	11:14:39
17		had some sort of baseline compensation?	11:14:43
18	A	Yes.	11:14:44
19		MR. SANFILIPPO: Objection, form.	11:14:44
20	A	Yes, they did. They did. Sorry.	11:14:45
21	Q	No, you're fine. And then at what point	11:14:47
22		did he cease becoming the chairman -- strike that.	11:14:50
23		At what point did his role change when he no longer	11:14:54
24		became the chairman?	11:14:57
25		MR. SANFILIPPO: Objection, form.	11:14:58

1	BY MR. O'BEIRNE:	11:14:59
2	Q I just said "became" again. I don't know	11:15:00
3	why. When did he stop being chairman of the board	11:15:02
4	of Chesapeake?	11:15:04
5	MR. SANFILIPPO: Objection, form,	11:15:05
6	foundation.	11:15:05
7	MR. DEMERS: You can answer.	11:15:06
8	A I'm not sure I recall the exact date.	11:15:07
9	Sorry.	11:15:13
10	Q Around the same time he became CEO?	11:15:13
11	MR. SANFILIPPO: Objection, form.	11:15:16
12	MR. DEMERS: You can answer.	11:15:18
13	A I believe that to be the case.	11:15:18
14	Q Was to your knowledge Mr. Donnelly ever	11:15:22
15	both the chairman and the CEO of the new entity,	11:15:25
16	Advarra?	11:15:28
17	MR. SANFILIPPO: Objection, foundation.	11:15:29
18	MR. DEMERS: You can answer.	11:15:30
19	A I do not think he was ever -- served in	11:15:31
20	both roles simultaneously.	11:15:34
21	Q And in your recollection, who became the	11:15:35
22	chairman of the board of Advarra after Mr. Donnelly	11:15:37
23	was no longer the chairman?	11:15:40
24	MR. SANFILIPPO: Objection, form,	11:15:41
25	foundation.	11:15:42

1	MR. DEMERS: You can answer.	11:15:43
2	A It's my recollection that Tony Davis	11:15:43
3	became the chairman of the board.	11:15:46
4	Q Do you have an understanding of the	11:15:48
5	extent to which Mr. Donnelly kept chairman shares	11:15:51
6	in Advarra through 2019 through the sale of the	11:15:55
7	company?	11:15:59
8	MR. SANFILIPPO: Objection, foundation.	11:15:59
9	MR. DEMERS: Same objection. You can	11:16:01
10	answer.	11:16:02
11	A I don't have direct knowledge of that.	11:16:02
12	Q Do you recall a discussion about allowing	11:16:11
13	Mr. Donnelly to keep shares in Advarra that were	11:16:15
14	associated with his chairman role even after he no	11:16:20
15	longer was performing that job?	11:16:22
16	MR. SANFILIPPO: Objection, form,	11:16:24
17	foundation.	11:16:25
18	MR. DEMERS: Same objection. You can	11:16:26
19	answer.	11:16:27
20	A I don't have any knowledge of	11:16:27
21	discussions. I'll leave it -- leave it there.	11:16:33
22	Q Okay. Do you have an understanding of --	11:16:39
23	at the time Advarra was sold to Genstar, do you	11:16:46
24	have an understanding of what percentage of Mr.	11:16:48
25	Donnelly's shares that he owned at the time were	11:16:51

1	related to his chairman prior role?	11:16:53
2	MR. SANFILIPPO: Objection, form,	11:16:57
3	foundation.	11:16:58
4	MR. DEMERS: Same objection. You can	11:16:59
5	answer.	11:17:00
6	A At the time of the transaction, I was not	11:17:00
7	privy to the cap table with the exception of my own	11:17:06
8	component.	11:17:09
9	Q Okay. You talked about some -- the	11:17:12
10	prospects of growth and add-on transactions being	11:17:18
11	discussed from the time you were at Chesapeake.	11:17:21
12	You recall that?	11:17:24
13	A Right.	11:17:25
14	MR. SANFILIPPO: Objection, form.	11:17:25
15	BY MR. O'BEIRNE:	11:17:26
16	Q Just trying to orient you to the topic.	11:17:27
17	I'm not --	11:17:29
18	A Right.	
19	Q -- meaning to get testimony, so --	11:17:30
20	MR. SANFILIPPO: Objection, form.	11:17:32
21	BY MR. O'BEIRNE:	11:17:33
22	Q The Quorum transaction -- do you recall	11:17:34
23	the details of that?	11:17:38
24	A Yes.	11:17:39
25	Q All right. From your perspective, was	11:17:40

1 the quorum transaction a good idea? 11:17:42

2 A Yes. 11:17:45

3 MR. SANFILIPPO: Objection to the form. 11:17:45

4 MR. DEMERS: Objection. 11:17:46

5 THE WITNESS: Sorry. 11:17:47

6 MR. DEMERS: You can answer. 11:17:48

7 THE WITNESS: Yes. 11:17:49

8 BY MR. O'BEIRNE: 11:17:50

9 Q Could you elaborate, why was the quorum 11:17:50

10 transaction a good idea? 11:17:53

11 A Well, it would have, among other -- 11:17:54

12 financials aside, which were quite favorable, it 11:18:00

13 gave us a diversity both geographically. It was an 11:18:04

14 addition of another very highly respected 11:18:10

15 institutional review board. It also had a small 11:18:13

16 consulting arm that again had some potential growth 11:18:18

17 opportunities. 11:18:23

18 There was opportunities for significant 11:18:26

19 synergies or redeployment of -- of assets. They 11:18:35

20 had a very nice, from an -- from an IRB 11:18:39

21 perspective, meaning vis-a-vis the competition, a 11:18:45

22 very nice marketing skill set that would have 11:18:48

23 precluded us from having to go buy all of our 11:18:57

24 services essentially. We had some in-house 11:19:00

25 marketing expertise, and it gave us the -- some 11:19:03

1 additional sales staff that we thought would be 11:19:08
2 helpful moving us forward. 11:19:11

3 Q Do you have an opinion as to whether or 11:19:12
4 not the acquisition of Quorum positively 11:19:14
5 contributed to the eventual sale price of Advarra? 11:19:19

6 MR. SANFILIPPO: Objection, form, 11:19:21
7 foundation. 11:19:22

8 MR. DEMERS: You can answer. 11:19:23

9 A I would say I have direct knowledge that 11:19:23
10 the acquisition of Quorum was highly positive in 11:19:27
11 the financial transaction eventually with Genstar. 11:19:33

12 Q What would be your assessment of -- of -- 11:19:37
13 in numbers, how positive? 11:19:39

14 MR. SANFILIPPO: Objection, form. 11:19:41

15 MR. DEMERS: You can answer. 11:19:42

16 A If I had to put a number on it, it'd be 11:19:42
17 200 million plus or -- meaning -- yeah, 200 11:19:47
18 million. 11:19:51

19 Q So it's your opinion that the acquisition 11:19:51
20 of the Quorum -- strike that. It's your opinion 11:19:53
21 that the acquisition of Quorum contributed \$200 11:19:56
22 million to the eventual sale value of Advarra. 11:19:59

23 A That's -- 11:20:02

24 MR. SANFILIPPO: Objection, form. 11:20:03

25 A Absolutely, so I would -- I would 11:20:05

1	describe it as a material event.	11:20:06
2	Q Was Mr. Donnelly in favor of the Quorum	11:20:08
3	acquisition or opposed to it?	11:20:10
4	MR. SANFILIPPO: Objection, form.	11:20:11
5	MR. DEMERS: Same objection.	11:20:12
6	MR. SANFILIPPO: Foundation.	11:20:14
7	MR. DEMERS: You can answer.	11:20:15
8	THE WITNESS: Can I just confer with	11:20:16
9	counsel for a second?	11:20:18
10	MR. DEMERS: Is -- do you have a question	11:20:19
11	about attorney-client privilege --	11:20:21
12	THE WITNESS: Yeah, yeah.	
13	MR. DEMERS: -- information?	11:20:23
14	THE WITNESS: Yeah.	11:20:23
15	MR. DEMERS: Okay. Do you want to take a	11:20:24
16	short recess?	11:20:26
17	THE WITNESS: It'll take two seconds.	11:20:28
18	THE VIDEOGRAPHER: Please stand by. We	11:20:29
19	are going off the record. The time on the video	11:20:31
20	monitor is 11:20 a.m.	11:20:33
21	(Discussion off the record)	11:21:44
22	THE VIDEOGRAPHER: We are back on the	11:22:06
23	record. The time is 11:22 a.m.	11:22:18
24	THE WITNESS: Thanks for that break.	11:22:21
25	BY MR. O'BEIRNE:	11:22:23

1 Q And just to clarify, my recollection of 11:22:23
2 the question was do you recall whether Mr. Donnelly 11:22:25
3 was in favor of or opposed to the Quorum 11:22:27
4 transaction. 11:22:30

5 MR. SANFILIPPO: Objection, form, 11:22:30
6 foundation. 11:22:31

7 MR. DEMERS: Same objection. You can 11:22:32
8 answer. 11:22:34

9 A Yes, I do recall. 11:22:34

10 Q And what do you recall about his position 11:22:35
11 about the Quorum transaction? 11:22:37

12 A He was strongly against it. 11:22:39

13 Q Please explain what you recall about how 11:22:42
14 he communicated that to members of the Advarra 11:22:45
15 team. 11:22:49

16 MR. SANFILIPPO: Objection, foundation. 11:22:49

17 MR. DEMERS: You can answer. 11:22:51

18 A He would have -- he provided it, you 11:22:52
19 know, like our typical management meetings about 11:22:59
20 the opportunity presenting itself and the reasons 11:23:02
21 -- his analysis of why that would not be prudent to 11:23:08
22 move forward. 11:23:12

23 Q And any time after that did he ever come 11:23:13
24 to you and say you guys were right, I was wrong 11:23:18
25 about Quorum? 11:23:20

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1	MR. SANFILIPPO: Objection, form,	11:23:22
2	foundation.	11:23:23
3	MR. DEMERS: Same objection. You can	11:23:23
4	answer.	11:23:24
5	THE WITNESS: Not to my recollection.	11:23:25
6	MR. O'BEIRNE: Could we get an exhibit	11:23:30
7	sticker, Wendel Number 1? Let me hand you that	11:23:32
8	one.	11:23:45
9	(Deposition Exhibit Number 1 was marked	11:23:45
10	for identification.)	11:23:45
11	BY MR. SANFILIPPO:	11:23:45
12	Q Mr. Wendel, I've just handed you a	11:23:45
13	document with Bates number at the bottom Donnelly.	11:24:12
14	Do you see that?	11:24:16
15	A Yes.	
16	Q Okay.	
17	A 20474.	11:24:17
18	Q So do you recognize this document?	11:24:23
19	A I've not seen this document before. It	11:24:24
20	looks like a relatively typical employment	11:24:35
21	agreement.	11:24:44
22	Q If you turn to the -- well, look -- look	11:24:46
23	with me if you would at the top of Exhibit 1 states	11:24:49
24	"Employment Agreement between Patrick K. Donnelly	11:24:53
25	and Advarra, Inc." Do you see that?	11:24:55

1	A	Yes.	11:24:57
2	Q	And I'll represent to you this is copy of	11:24:57
3		a document that was produced to us by --	11:24:59
4	A	Yeah, sure.	11:25:00
5	Q	-- by Mr. Donnelly in this case.	11:25:01
6		MR. SANFILIPPO: Objection,	11:25:03
7		argumentative.	11:25:03
8		BY MR. O'BEIRNE:	11:25:05
9	Q	Okay. So if you turn to the last page of	11:25:05
10		the contract before the exhibits, you see there	11:25:07
11		there's a signature underneath the name Patrick	11:25:11
12		Donnelly?	11:25:14
13	A	Correct.	11:25:15
14	Q	Okay, and on the page before that, you	11:25:16
15		see there's a signature above Mr. Shah's name?	11:25:18
16	A	Correct.	11:25:21
17	Q	All right. If you would look with me,	11:25:23
18		sir, at the bottom of the first page, it says	11:25:27
19		"Duties." See that?	11:25:30
20	A	Yes.	11:25:31
21	Q	And section 3 says, "During the	11:25:32
22		employment period, employee shall perform those	11:25:39
23		services and duties that are consistent with his	11:25:42
24		executive position and those duties that may be	11:25:43
25		assigned to employee by or under the authority of	11:25:46

1 the board consistent with that position." You see 11:25:49
2 that? 11:25:52
3 A Yes, I do. 11:25:52
4 Q "Consistent with such position." Sorry. 11:25:53
5 I misread. In November 2017, you were on the board 11:25:56
6 of Advarra? 11:26:01
7 A Yes, sorry, sorry. 11:26:03
8 Q And you were the president of the 11:26:09
9 company. 11:26:10
10 A Yes, I had just relinquished the CEO. 11:26:11
11 Q And Mr. Donnelly took over you -- 11:26:16
12 A Correct. 11:26:17
13 Q -- for you as contemplated by this 11:26:18
14 agreement. 11:26:20
15 A Correct. 11:26:20
16 Q You were also a substantial shareholder 11:26:21
17 in Advarra at that time. 11:26:23
18 A That's correct. 11:26:25
19 Q The agreement goes on, "During the 11:26:26
20 employment period, employee agrees to use 11:26:28
21 employee's best efforts in the business of the 11:26:30
22 company and its subsidiaries, and to devote 11:26:32
23 employee's full time, skill, attention and energies 11:26:36
24 to the business of the company and its 11:26:40
25 subsidiaries." Do you see that? 11:26:42

1	A	Yes, I do.	11:26:43
2	Q	Was it your understanding as president of	11:26:44
3		the company, a board member and a shareholder that	11:26:47
4		Mr. Donnelly was agreeing when he became the CEO of	11:26:50
5		Advarra --	11:26:53
6	MR. SANFILIPPO:	Objection, form,	11:26:54
7		foundation, calls for a legal conclusion.	11:26:55
8	MR. O'BEIRNE:	I wasn't remotely finished	11:26:57
9		with the question. Can I finish?	11:26:59
10	MR. SANFILIPPO:	Sorry.	11:27:00
11	BY MR. O'BEIRNE:		11:27:01
12	Q	So let me start again. Sir, was it your	11:27:02
13		understanding as a shareholder in Advarra, as the	11:27:04
14		president of the company and as a member of the	11:27:09
15		board, that when Mr. Donnelly agreed to become the	11:27:11
16		CEO of Advarra, he was committing to devoting his	11:27:14
17		full time, skill, attention and energies to the	11:27:18
18		business of Advarra and its subsidiaries?	11:27:21
19	A	Yes.	11:27:23
20	MR. SANFILIPPO:	Objection, form,	11:27:23
21		foundation, calls for a legal conclusion.	11:27:25
22	MR. DEMERS:	Same objection. You can	11:27:28
23		answer.	11:27:30
24	THE WITNESS:	Yes.	11:27:30
25	MR. SANFILIPPO:	Sir, I'd ask that you	11:27:30

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1	please give me a --	11:27:36
2	THE WITNESS: Yeah, sorry, sorry.	11:27:36
3	MR. SANFILIPPO: -- time to get my	11:27:37
4	objection --	
5	THE WITNESS: Sorry.	
6	MR. SANFILIPPO: -- before you answer the	11:27:37
7	question. Thank you.	11:27:38
8	THE WITNESS: Yeah, apologize for bad	11:27:38
9	form.	
10	MR. SANFILIPPO: No, no, it's easy to get	11:27:42
11	into a rhythm, so --	11:27:43
12	MR. O'BEIRNE: Are they speaking	11:27:45
13	objections when you do them or just me?	11:27:46
14	MR. SANFILIPPO: Well, I said form,	11:27:48
15	foundation. I think foundation's different than	11:27:51
16	form, and calls for a legal conclusion I don't	11:27:53
17	think is a form objection, so I think we're all	11:27:55
18	right there.	11:27:58
19	MR. O'BEIRNE: Got it.	11:27:59
20	THE WITNESS: I'm glad to go through that	11:27:59
21	little section again if that's needed.	11:28:01
22	BY MR. O'BEIRNE:	11:28:03
23	Q We're fine.	11:28:04
24	A Okay.	
25	Q So when you were the CEO of Advarra --	11:28:05

1	strike that. When you were the CEO of Chesapeake,	11:28:07
2	did you devote your full time, skill, attention and	11:28:11
3	energy to that job?	11:28:14
4	A Yes, I did.	11:28:15
5	Q And I recall you testifying earlier that	11:28:16
6	from your perspective, that was a full-time job?	11:28:19
7	MR. SANFILIPPO: Objection, form.	11:28:21
8	A Yes, that's correct.	11:28:22
9	Q Would -- in your mind, would it have been	11:28:23
10	consistent with your obligations as the CEO of	11:28:26
11	Chesapeake if you committed to devote more than 50	11:28:29
12	percent of your working time to some other company?	11:28:32
13	MR. SANFILIPPO: Objection, form,	11:28:35
14	foundation.	11:28:36
15	MR. DEMERS: You can answer.	11:28:37
16	A I'm sorry, could you repeat --	11:28:38
17	Q Sure.	11:28:40
18	A I just missed --	11:28:41
19	Q No, when you were the CEO of Chesapeake	11:28:42
20	--	11:28:44
21	A Right.	11:28:44
22	Q Would it have been consistent with your	11:28:45
23	commitments to Chesapeake for you to have an	11:28:47
24	agreement with some other company to devote more	11:28:50
25	than 50 percent of your time to the other company,	11:28:52

1	not to Chesapeake?	11:28:54
2	MR. SANFILIPPO: Same objections.	11:28:55
3	MR. DEMERS: You can answer.	11:28:56
4	A That would not have been consistent with	11:28:56
5	the agreement that I signed as a CEO.	11:28:58
6	Q As a shareholder in Advarra, were you	11:29:03
7	expecting Mr. Donnelly to treat the CEO job as a	11:29:09
8	full-time job?	11:29:12
9	MR. SANFILIPPO: Objection, form.	11:29:13
10	MR. DEMERS: Same objection. You can	11:29:14
11	answer.	11:29:15
12	A Yes.	11:29:16
13	Q Was it clear to you that Linden was	11:29:16
14	expecting Mr. Donnelly to treat the CEO of Advarra	11:29:20
15	position as a full-time job?	11:29:24
16	MR. SANFILIPPO: Objection, form,	11:29:26
17	foundation.	11:29:27
18	MR. DEMERS: Same objection. You can	11:29:27
19	answer.	11:29:28
20	A I don't know it was explicitly stated	11:29:28
21	perhaps directly to me, but it was certainly	11:29:33
22	implicit in the -- in being assigned the CEO.	11:29:36
23	Q I'd like to ask you a few questions about	11:29:40
24	the Bearcat transaction that was the sale of the	11:29:51
25	Advarra to Genstar.	11:29:56

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1	A	Correct.	11:29:59
2	Q	Do you recall a time where you became	11:29:59
3		concerned that Mr. Donnelly was acting in a way	11:30:01
4		counterproductive to the sale?	11:30:04
5		MR. SANFILIPPO: Objection, form.	11:30:06
6		MR. DEMERS: Same objection. You can	11:30:07
7		answer.	11:30:08
8	A	Am I aware of a time when Mr. Donnelly	11:30:09
9		was acting in a manner counterproductive to a sale?	11:30:29
10	Q	Let me rephrase the question.	11:30:33
11	A	Okay. Sorry.	11:30:35
12	Q	Advarra was eventually sold to Genstar,	11:30:43
13		correct?	11:30:45
14	A	Correct.	11:30:45
15		MR. SANFILIPPO: Objection, form.	11:30:46
16		BY MR. O'BEIRNE:	11:30:47
17	Q	Do you recall Mr. Donnelly making	11:30:47
18		statements in connection with the prospect that	11:30:51
19		Genstar would acquire Advarra that you thought were	11:30:56
20		counterproductive to the sale of Advarra to	11:30:59
21		Genstar?	11:31:02
22		MR. SANFILIPPO: Objection, form.	11:31:02
23		MR. DEMERS: Same objection. You can	11:31:03
24		answer.	11:31:04
25	A	I was aware of Mr. Donnelly making	11:31:04

1 comments that were not wholly supportive of a 11:31:09
2 Genstar acquisition. 11:31:14

3 Q What do you recall those comments to be? 11:31:15

4 MR. SANFILIPPO: Objection, form. 11:31:20

5 MR. DEMERS: You can answer. 11:31:23

6 MR. SANFILIPPO: And foundation. 11:31:24

7 MR. DEMERS: You can answer. 11:31:26

8 THE WITNESS: That was clearly not the 11:31:27
9 candidate that he preferred. He shared with us 11:31:31
10 some -- a previous situation where he was a 11:31:36
11 portfolio company CEO under Genstar. That's 11:31:41
12 probably, you know, the general answer. 11:31:52

13 BY MR. O'BEIRNE: 11:31:53

14 Q Did you get the sense that his lack of a 11:31:53
15 preference for Genstar was based on his view of 11:31:55
16 what would be best for Advarra or his personal 11:31:59
17 history with Genstar? 11:32:02

18 MR. SANFILIPPO: Objection, form, 11:32:03
19 foundation. 11:32:04

20 MR. DEMERS: Same objection. You can 11:32:04
21 answer. 11:32:05

22 A I think the nonpreference for Genstar was 11:32:05
23 a very significant component of his lack of 11:32:22
24 enthusiasm for the transaction going with Genstar. 11:32:30

25 Q And so I want to make sure I understand 11:32:34

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1	your question. I'm just trying to get at did you	11:32:38
2	think he was not enthusiastic about the transaction	11:32:40
3	going to Genstar because he thought the transaction	11:32:44
4	going to Genstar would be less favorable for the	11:32:46
5	Advarra shareholders, or because he had personal	11:32:49
6	history with Genstar?	11:32:51
7	MR. SANFILIPPO: Objection, form,	11:32:53
8	foundation.	11:32:54
9	MR. DEMERS: Same objection. You can	11:32:54
10	answer.	11:32:55
11	THE WITNESS: I would have no reason to	11:32:55
12	suspect that anyone would have concluded that going	11:33:01
13	with Genstar would have been adverse to Advarra's	11:33:05
14	shareholders. I do believe that Mr. Donnelly had	11:33:09
15	strong and stated aversion to going with Genstar.	11:33:16
16	MR. O'BEIRNE: I don't have any more	11:33:42
17	questions for the witness.	11:33:43
18	MR. SANFILIPPO: I have no further	11:33:46
19	questions for the witness. Thank you, sir.	11:34:05
20	THE WITNESS: Thanks.	
21	MR. SANFILIPPO: Appreciate your time.	11:34:09
22	THE VIDEOGRAPHER: Please stand by. Here	11:34:09
23	marks the end of the videotaped deposition of Jeff	11:34:17
24	Wendel. We are off the record at 11:34 a.m.	11:34:21
25	(Off the record at 11:34 a.m.)	

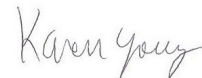
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Conducted on September 30, 2021

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1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, Karen Young, the officer before whom
3 the foregoing deposition was taken, do hereby
4 certify that the foregoing transcript is a true and
5 correct record of the testimony given; that said
6 testimony was taken by me stenographically and
7 thereafter reduced to typewriting under my
8 direction; that reading and signing was not
9 requested, and that I am neither counsel for or
10 related to, nor employed by any of the parties to
11 this case and have no interest, financial or
12 otherwise, in its outcome.

13 IN WITNESS WHEREOF, I have hereunto set
14 my hand and affixed my notarial seal this 10th day
15 of October, 2021.

16 

17 _____
18 NOTARY PUBLIC IN AND FOR
19 THE DISTRICT OF COLUMBIA

20
21 My commission expires:
22 July 31, 2024
23
24
25

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